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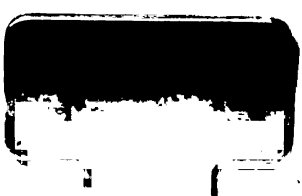

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TO THE

EXECUTIVE DOCUMENTS

OF THE

SENATE OF THE UNITED STATES

FOR THE

FIRST SESSION FORTIETH CONGRESS, AND FOR THE SPECIAL SESSION,

1867.

IN ONE VOLUME.

Executive Documents of First Session.....No. 1 to No. 20, inclusive.
Special Session.....No. 1 to No. 9, inclusive.

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LETTER

OF

THE SECRETARY OF WAR,

COMMUNICATING,

In compliance with a resolution of the Senate of March 2, 1867, a report of Major General Howard, Commissioner of Freedmen, &c., respecting extreme want and danger of starvation in several of the southern States.

MARCH 8, 1867.—Read, referred to the Committee on the Judiciary, and ordered to be printed.

WAR DEPARTMENT,
Washington, March 8, 1867.

SIR: I have the honor to transmit herewith a report of this date by Major General Howard, Commissioner of Freedmen, &c., respecting "extreme want and danger of starvation in several of the southern States," called for by the Senate's resolution of March 2, 1867.

Very respectfully, sir, your obedient servant,

EDWIN M. STANTON,
Secretary of War.

Hon. B. F. WADE,
President of the Senate.

WAR DEPARTMENT,
BUREAU OF REFUGEES, FREEDMEN AND ABANDONED LANDS,
Washington, March 8, 1867.

SIR: I have the honor to transmit the enclosed report, called for by resolution of the Senate of the United States, dated March 2, 1867.

Very respectfully, your obedient servant,

O. O. HOWARD,
Major General, Commissioner.

Hon. E. M. STANTON,
Secretary of War.

WAR DEPARTMENT,
BUREAU OF REFUGEES, FREEDMEN AND ABANDONED LANDS,
Washington, March 8, 1867.

SIR: In answer to the resolution of the Senate of the United States I have the honor to report as follows:

From official sources, and confirmed by gentlemen from different sections of the south, my estimate is thirty-two thousand six hundred and sixty-two (32,662) whites, and twenty-four thousand two hundred and thirty-eight (24,238)

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colored people, making in all fifty-six thousand and nine hundred, (56,900,) who will need food from some source before the next crop can relieve them. The number of rations for all per month, one million seven hundred and seven thousand, (1,707,000.) For five months, the probable time required, eight millions five hundred and thirty-five thousand (8,535,000) rations, at twenty-five cents per ration, the estimated cost, will be two million one hundred and thirty-three thousand seven hundred and fifty dollars, ($2,133,750.) Of this sum an appropriation has already been made for the five months to the amount of six hundred and twenty-five thousand dollars, ($625,000,) leaving an additional sum required of one million five hundred and eight thousand seven hundred and fifty dollars, ($1,508,750.) This sum I deem sufficient to meet the extreme want occasioned by failure of the crop, and other causes referred to in the resolution of inquiry. The present appropriation is ample, provided the issues be confined to the classes named in the Freedmen's Bureau act; but the additional sum named will be required, should the issue be extended as contemplated in the foregoing estimate.

The following table affords the detail of the estimate for the several States where want is reported to exist.

Very respectfully, your obedient servant,

O. O. HOWARD,
Major General, Commissioner Bureau of Refugees, &c.

Hon. B. F. WADE, *President of the Senate.*

P. S.—Since my report was drawn up I received a joint estimate from the assistant commissioner and governor of Georgia greatly exceeding the amount in the table. I am, however, unwilling to recommend a larger appropriation for Georgia before another estimate shall be made based on a thorough inspection.

Very respectfully, your obedient servant,

O. O. HOWARD,
Major General, Commissioner.

Tabular statement.

	Number of destitutes.		Number of rations needed.		Value at 25 cts. per ration.
	Whites.	Blacks.	Per month.	For 5 months.	
Virginia	2,500	2,500	150,000	750,000	$187,500
North Carolina	3,000	2,000	150,000	750,000	187,500
South Carolina	5,000	5,000	300,000	1,500,000	375,000
Florida	500	1,000	45,000	225,000	56,250
Georgia	7,500	5,000	375,000	1,875,000	468,750
Alabama	10,000	5,000	450,000	2,250,000	562,500
Tennessee	1,000	1,000	60,000	300,000	75,000
Mississippi	1,862	2,038	117,000	585,000	146,250
Arkansas	1,000	500	45,000	225,000	56,250
Louisiana	300	200	15,000	75,000	18,750
Texas					
	32,662	24,238	1,707,000	8,535,000	2,133 750

O. O. HOWARD,
Major General, Commissioner, &c.

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40TH CONGRESS, 1st Session. | SENATE. | Ex. Doc. No. 2.

LETTER

OF

THE SECRETARY OF WAR,

COMMUNICATING,

In compliance with a resolution of the Senate of February 5, 1867, information in relation to an order issued by Lieutenant General Sherman in regard to the protection of trains on the overland route.

MARCH 8, 1867.—Read, ordered to lie on the table and be printed.

WAR DEPARTMENT,
Washington, March 6, 1867.

SIR: In further compliance with the Senate's resolution of February 5, 1867, asking to be informed "whether any order has been issued by Lieutenant General Sherman in regard to the protection of trains on the overland route, so called," I have now the honor to transmit herewith a copy of General Sherman's report of the 16th February, on the subject, which was not received in season for transmission to the Senate at its last past session.

Very respectfully, sir, your obedient servant,

EDWIN M. STANTON,
Secretary of War.

Hon. B. F. WADE,
President of the Senate.

HEADQUARTERS MILITARY DIVISION OF THE MISSOURI,
St. Louis, Mo., February 16, 1867.

SIR: In compliance with the provisions of the resolution made in the Senate of the United States, under date of February 5, 1867, and transmitted from your headquarters, I have the honor to enclose herewith copies of my General Orders No. 2, of March 26, 1866, ratifying and approving those of Major General Pope, No. 27, of February 28, 1866, "regulating travel across the plains."

These orders were in force during the past year, and, with some modifications, will be enforced for the present year, (1867.) Under the provisions of these orders a vast amount of merchandise and great numbers of people passed safely to their destinations in our remote and exposed Territories. For the general safety it is deemed best to define and limit the roads by which this overland commerce is carried on, as it enables us to collect our military forces along them.

For the year 1867, I propose to apply the general rules laid down in General Pope's General Orders No. 27, to four principal routes:

1. From Minnesota to Montana, via Forts Abercrombie, Wadsworth, Rice, Berthold, Buford, and Judith and Sun rivers, with a couple of new stations between Wadsworth and Rice.

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2. The great Platte route, by which full ninety per cent. of the travel to Montana, Utah, California, and Colorado have hitherto gone. In this connection I also propose to give increased force and protection to the shorter line to Virginia City from Laramie, via Forts Reno, Philip Kearney, and C F. Smith.

3. The Smoky Hill route to Colorado, via Forts Riley, Harker, Hays, Wallace, &c., to Denver City.

4. The Arkansas route from Kansas and Arkansas, via Forts Zara, Larned, Dodge, Lyon, the Purgatoire, &c., to Fort Union and New Mexico.

I also propose to leave the post commanders along the routes a little more latitude of judgment as to the strength of trains passing out, as sometimes cost and delay have resulted from holding trains until the requisite number had accumulated.

I am, sir, very respectfully, your obedient servant,

W. T. SHERMAN,
Lieutenant General Commanding.

Major GEORGE K. LEET,
Assistant Adjutant General, Headquarters Armies of the United States, Washington, D. C.

[General Order No. 27.]

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
St. Louis, Missouri, February 28, 1866.

For the security of trains and travellers crossing the great plains during the coming season, the following rules are published and will be enforced by all commanders of military posts in that region:

I. Fort Ridgley and Fort Abercrombie are designated as points of rendezvous for all trains or travellers pursuing the routes from Minnesota to the mining regions of Montana, by way of Fort Berthold, Fort Union, and the valley of the Upper Missouri and Yellowstone rivers; and to the same region by way of Sioux falls, Fort Pierre, the Black Hills, and Powder river. This latter route is believed to be safe to travel as far as Fort Pierre or Crow creek, on the Missouri river, even for small parties. Beyond the Missouri river all precautions herein indicated must be taken.

In like manner, Fort Kearny is designated as the point of rendezvous for all trains destined for Denver City or Fort Laramie, by way of the Platte River route; and Fort Riley and Fort Larned as the rendezvous for trains for New Mexico and for Denver City or other points in Colorado, by the Smoky Hill or Arkansas River routes. These points can be reached from the Missouri river without danger.

II. At the posts above designated all trains will be organized for defence by electing a captain and other officers, and organizing the teamsters, employés, and any other persons travelling with or belonging to the train, into one or more companies. Every person who accompanies a train must be properly armed for defence, and must submit himself during the journey to such regulations as the captain of the train shall lay down, and perform such duties, as guards, sentinels, herdsmen, &c., as may be designated by the same authority. No train consisting of less than twenty wagons and thirty armed men, organized as above indicated, will be permitted to pass into the Indian country; and during the transit across the plains these trains will be held responsible for the faithful observance of the rules and regulations laid down and the treaties with the Indian tribes through whose country they are passing.

III. The commanding officer of each military post on any of the routes west of the posts herein indicated as rendezvous is directed to inspect each train

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which passes his post, sufficiently to assure himself that the military organization herein specified has been made, and that the usual precautions against Indian attacks or surprises have been carefully observed. When it is found that the provisions of this order have not been complied with, the train in which such neglect occurs will not be permitted to pass beyond the military post where it is discovered until it is made manifest to the commanding officer that such neglect will not occur again. The commanding officer who discovers this neglect will also report the facts to the commander of the next post on the route, in order that careful examination of the train may again be made at that post.

IV. All persons travelling across the plains, except those belonging to the military service of the United States and such as are transported in the mail coaches or other conveyances on the overland routes, must join themselves together in a military organization, consisting of not less than thirty armed men, or must connect themselves with some train.

V. No persons will be permitted to enter the Indian country unless they comply with the provisions of this order; and commanding officers of the military posts, as far west as Washington Territory, the State of Nevada, and the Territory of Arizona, will arrest and hold all persons attempting to cross the plains in any other manner than that herein specified.

VI. Whenever a military escort is thought necessary, the commanding officer of the military post beyond which such escort may be required will notify the captains of trains of the fact, and will furnish a sufficient escort in addition to the force with the train to protect it to the next military post, when, if necessary, another escort will be furnished; and these escorts will be supplied from one post to another in this manner until the point of danger is passed.

VII. Whenever an attack is made by Indians upon any train pursuing the overland routes, or travelling elsewhere on the plains, the commanding officer of the nearest military post will furnish prompt assistance, and will immediately report the facts in the case to these headquarters, specifying particularly whether the party attacked had complied with these rules, and had made as good defence as could be expected.

VIII. These regulations will be enforced in like manner upon all returning trains, which will be organized in conformity thereto at the military post nearest to their points of departure from the settlements.

IX. All commanding officers of military posts on the plains are charged with and will be held responsible for the faithful execution of this order; and on no pretext should they fail carefully to inspect every train or party of travellers which passes through or within reach of the posts under their command. While every assistance at their command will be furnished by the commanders of military posts which may facilitate or render secure the transit of emigrants or supply trains across the great plains, these officers are also charged with the responsibility of exacting from these parties a strict observance of all proper precautions against Indians, and of requiring that such parties be prepared to protect themselves as far as may be in their power.

X. It is not practicable, with the military forces within this department, to render every foot of the overland routes entirely secure against Indian hostilities; and, whilst the military forces will be disposed and used in the manner which seems best adapted to protect parties of travellers, such parties must, between the military posts, rely much upon their own organization and means of defence. As the government provides such protection for emigrants and trains as it is practicable to do without ruinous expense, and as the military forces are held largely responsible for any misfortunes which may befall such parties from Indian attacks, they claim and will exercise the right to lay down rules for such journeys, made within the Indian country and the jurisdiction of the military authorities, as may be considered necessary to provide against danger, and at the same time not be oppressive or embarrassing to emigration or travel.

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The above regulations are thought reasonable and easy to observe, and, if complied with, are considered sufficient, with the presence and aid of the troops at important points, to render travel across the plains reasonably secure. They are therefore published for the information of all concerned, and will be strictly enforced.

By command of Major General Pope:

J. P. SHERBURNE,
Assistant Adjutant General.

[General Orders No. 2.]

HEADQUARTERS MILITARY DIVISION OF THE MISSISSIPPI,
St. Louis, Mo., March 26, 1866.

I. In compliance with the 2d paragraph of General Orders No. 12, from the Adjutant General's office, of March 5, 1866, the department of the Platte will be composed of the States of Minnesota and Iowa, the Territory of Montana, and so much of the Territories of Dakota and Nebraska as lies north of the Platte and Sweetwater rivers, excepting Fort Casper, which is left in the department of the Missouri.

II. The following troops will be transferred from the department of the Missouri to that of the Platte, viz: the 10th United States infantry, the 13th United States infantry, and the 2d battalion 18th United States infantry, the commanding officers of which will be instructed to report to Brigadier General P. St. George Cooke, commanding department of the Platte, headquarters at Omaha.

III. General Orders Nos. 27 and 33, made by Major General Pope, commanding the department of the Missouri, under dates February 28, 1866, and March 10, 1866, are hereby ratified and confirmed, and the disposition of troops and arrangements for protecting travel across the plains will be carried out, as far as the case will admit of, to be modified only by orders of the department commander.

IV. In case of the pursuit of mischievous Indians or whites infesting the border line, the troops will act without regard to the department line, simply reporting their action through their own commanding officers to the commanding general of the department invaded.

V. Whenever new posts are required, or the enlargement of posts already established, careful estimates must be submitted to these headquarters before work involving an outlay of money is commenced.

The troops and garrisons must, as far as possible, construct their own quarters and buildings needed to shelter their own stores, using, as far as possible, the most permanent materials at hand; and commanding generals of departments are advised to use patrols or detachments in temporary camps and bivouac during the summer and fall months, and to call them in to the permanent posts for winter.

By order of Major General W. T. Sherman:

JNO. G. TELFORD,
Assistant Adjutant General.

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MESSAGE

OF THE

PRESIDENT OF THE UNITED STATES,

COMMUNICATING,

In compliance with a resolution of the Senate of January 31, 1867, correspondence between the Department of State and the United States consul at Geneva, with reference to the policy of the President towards the States lately in rebellion.

MARCH 15, 1867.—Read, ordered to lie on the table and be printed.

To the Senate of the United States:

I transmit to the Senate, in further answer to their resolution of the 31st of January last, a report from the Secretary of State, with accompanying documents.

ANDREW JOHNSON.

WASHINGTON, *March* 15, 1867.

DEPARTMENT OF STATE,
Washington, March 15, 1867.

The Secretary of State, in further answer to the resolution of the Senate of the 31st of January last, requesting the President to communicate to that body, "if in his opinion not incompatible with the public interests, any correspondence between the Department of State and any of the foreign ministers of the United States with reference to the policy of the President towards the States lately in rebellion, and especially any inquiries by the Department of State with regard to the conversation or opinions of such foreign ministers," has the honor to communicate to the President a copy of a despatch, dated February 27, 1867, and numbered 58, addressed to the Secretary of State by Mr. Charles H. Upton, United States consul at Geneva, Switzerland, and of the reply thereto.

WILLIAM H. SEWARD.

The PRESIDENT.

No. 58.]

UNITED STATES CONSULATE,
Geneva, February 27, 1867.

SIR: I have the honor to forward to you, in compliance with the request of the signers, the enclosed paper.

George W. McCracken is a person entirely unknown to me, and I can only conjecture that he has heard of and exaggerates the sins of my predecessor. However this may be, passing over the question of my personal habits, alleged by him to be those of a "common drunkard," I answer the allegation, that "when sober, he abuses the President in the hearing of everybody."

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Born and educated at the north, and having lived thirty years at the south, I have learnt much of the character and faults of both sections. Our late civil war was, in my judgment, the result of mutual provocations. I believed that the earliest possible reconciliation after the war was over was the dictate of wisdom and humanity. When Mr. Ward Beecher published his Cleveland letter, I rejoiced. When the pressure of party compelled him to retract it I was grieved.

At a public dinner given in this city on the last 4th of July, to which I was invited, and which was gotten up by some gentlemen belonging to the Philadelphia Union League, I was called upon to respond to a toast for the President. In my remarks, this part of which was published, I begged those who heard me to remember the great services which the President had rendered to the country, and when they returned home to treat him with kindness and forbearance. Such have been my sentiments and utterances; but if it happened that I differed politically from the Chief Magistrate whose commission I hold, I should have too much respect for my position either to abuse him or to allow others to do so in my presence.

I am, very respectfully, your obedient servant,

CHAS. H. UPTON,
United States Consul.

Hon. W. H. SEWARD,
Secretary of State, Washington, D. C.

The undersigned, American ladies, residing in Geneva, have seen with astonishment and indignation a statement signed by Geo. W. McCracken, of New York, to the following effect:

"The consul at Geneva is a common drunkard, and a disgrace to the country. When sober, he abuses the President in the hearing of everybody."

We take pleasure in testifying that Mr. Upton, our consul at Geneva, is a gentleman of temperate habits, attentive to his duties, and extremely kind and obliging to his countrymen; and that although we have often heard political matters discussed in his presence, we have never heard him utter any other sentiments than those of respect for the President.

Mrs. S. B. THOMPSON, of Springfield, Illinois.
Mrs. LUTHER STONE, of Chicago, Illinois.
Mrs. ANDREW FOSTER, New York.
Miss MARGARETTA A. JONES, New York.
Mrs. THOMAS BARRET, Georgia.
Mrs. THOMAS GLASCOCK, Georgia.
Mrs. JAMES G. GOULD, Georgia.

GENEVA, SWITZERLAND, *February* 25, 1867.

DEPARTMENT OF STATE,
Washington, March 15, 1867.

SIR: Your despatch No. 58. dated February 27, 1867, has been received. The explanations therein given with regard to the charges made against you, in the letter of Geo. W. McCracken, and the accompanying certificate, are satisfactory to the department

I am, sir, your obedient servant,

F. W. SEWARD,
Assistant Secretary.

CHARLES H. UPTON, Esq.,
United States Consul, Geneva.

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40TH CONGRESS, 1st Session. | SENATE. | EX. DOC. No. 4.

MESSAGE

OF THE

PRESIDENT OF THE UNITED STATES,

COMMUNICATING,

In compliance with a resolution of the Senate of July 28, 1866, *correspondence between the government of the United States and the governments of France and Prussia, touching the claim to military service asserted by those governments in reference to persons born in those countries, but who have since become naturalized under the laws of the United States.*

MARCH 11, 1867.—Read and referred to the Committee on Foreign Relations.
MARCH 12, 1867.—Ordered to be printed.

To the Senate of the United States:

I transmit to the Senate, in answer to their resolution of the 28th of July last, a report from the Secretary of State, with accompanying documents.

ANDREW JOHNSON.

WASHINGTON, *March* 11, 1867.

DEPARTMENT OF STATE,
Washington, February 25, 1867.

The Secretary of State, to whom was referred the resolution of the Senate of the 28th of July last, requesting the President, "if not, in his opinion, incompatible with the public interest, to transmit to the Senate copies of all correspondence not heretofore published between the government of the United States and the governments of France and Prussia, since March 4, 1857, touching the claim to the military service asserted by those governments in reference to persons born in those countries, but who have since become naturalized under the laws of the United States," has the honor to lay before the President the papers specified in the accompanying list.

WILLIAM H. SEWARD.

The PRESIDENT.

LIST OF ACCOMPANYING PAPERS.

France.

Mr. Cass to Mr. Mason, No. 189, with an enclosure	June	27, 1859.
Mr. Mason to Mr. Cass, No. 407, (extract,) with an enclosure	Aug.	2, 1859.
Mr. Calhoun to Mr. Cass, No. 11, with an enclosure	Dec.	6, 1859.
Mr. Cass to Mr. Calhoun, No. 7	Dec.	31, 1859.
Mr. Faulkner to Mr. Cass, No. 9, with enclosures	March	14, 1860.
Mr. Faulkner to Mr. Cass, No. 15, with enclosures	March	30, 1860.
Mr. Faulkner to Mr. Cass, No. 17, with an enclosure	April	7, 1860.
Mr. Cass to Mr. Faulkner, No. 19	May	7, 1860.

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Mr. Faulkner to Mr. Cass, No. 23.....May 23, 1860.
Mr. Faulkner to Mr. Cass, No. 27, with enclosures.....June 16, 1860.
Mr. Faulkner to Mr. Cass, No. 33, (extract,) with enclosures..July 16, 1860.
Mr. Faulkner to Mr. Cass, No. 48, with an enclosure.....Aug. 25, 1860
Mr. Faulkner to Mr. Cass, No. 54, with enclosures .....Sep. 17, 1860.
Mr. Cass to Mr. Faulkner, No. 35.....Oct. 3, 1860.
Mr. Dayton to Mr. Seward, No. 153, with enclosures.....May 30, 1862.
Mr. Bigelow to Mr. Seward, No. 302, with enclosures.....April 13, 1866.
Mr. Bigelow to Mr. Seward, No. 303, with an enclosure.....April 14, 1866.
Mr. Bigelow to Mr. Seward, No. 311, with enclosures.....April 27, 1866.
Mr. Bigelow to Mr. Seward, No. 312, with an enclosure.....April 28, 1866.
Mr. Seward to Mr. Bigelow, No. 453.....May 7, 1866.
Mr. Bigelow to Mr. Seward, No. 395, with enclosures.....Dec. 22, 1866.

Prussia.

Mr. Wright to Mr. Cass, No. 32, (extract,) with enclosures....Aug. 7, 1858.
Mr. Cass to Mr. Wright, No. 18.....May 12, 1859.
Mr. Wright to Mr. Cass, No. 120, (extract).....March 14, 1860.
Mr. Judd to Mr. Seward, No. 114, (extract,) with an enclosure.Aug. 7, 1860.
Mr. Butler to Mr. Cass, No. 2, (extract,) with an enclosure....Aug. 16, 1860.
Mr. Butler to Mr. Cass, No. 3, (extract,) with an enclosure....Aug. 17, 1860.
Mr. Butler to Mr. Cass No. 4, (extract,) with an enclosure....Aug. 20, 1860.
Mr. Butler to Mr. Cass.....Sept. 15, 1860.
Mr. Wright to Mr. Cass, No. 145, (extract).....Sept. 26, 1860.
Mr. Wright to Mr. Cass. No. 147, (extract).....Oct. 13, 1860.
Mr. Wright to Mr. Cass, No. 151, (extract,) with enclosures..Nov. 10, 1860.
Mr. Wright to Mr. Cass, No. 154, with an enclosure.....Dec. 1, 1860.
Mr. Wright to Mr. Black, No. 161, (extract).....Feb. 16, 1861.
Mr. Wright to Mr. Black, No. 163, (extract,) with an enclosure.Feb. 30, 1861.
Mr. Wright to Mr. Black, No. 167, with an enclosure.....March 7, 1861.
Mr. Hudson to Mr. Seward, No. 1, (extract,) with enclosures., May 1, 1861.
Mr. Judd to Mr. Seward, No. 4, (extract,) with enclosures...July 24, 1861.
Mr. Seward to Mr. Judd, No. 72, (extract).....Aug. 12, 1861.
Mr. Judd to Mr. Seward, No. 6, (extract,) with enclosures....Aug. 27, 1861.
Mr. Judd to Mr. Seward, No. 7, (extract,) with an enclosure..Sep. 3, 1861.
Mr. Judd to Mr. Seward, No. 9 with enclosures.....Sep. 30, 1861.
Mr. Judd to Mr. Seward, No. 13, (extract,) with an enclosure..Nov. 23, 1861.
Mr. Seward to Mr. Judd, No. 22.....Jan. 10, 1862.
Mr. Judd to Mr. Seward, No. 76, with an enclosure.....Jan. 14, 1862.
Mr. Seward to Mr. Judd, No. 24.....Jan. 25, 1862.
Mr. Seward to Mr. Judd, No. 25, (extract).....Feb. 10, 1862.
Mr. Judd to Mr. Seward, No. 78, (extract,) with enclosures...Feb. 17, 1862.
Mr. Judd to Mr. Seward, No. 79, (extract,) with enclosures...Feb. 28, 1862.
Mr. Seward to Mr. Judd, No. 26, (extract).....March 10, 1862.
Mr. Judd to Mr. Seward, No. 20, (extract,) with enclosures...March 14, 1862.
Mr. Judd to Mr. Seward, No. 21, (extract,) with anenclosure..March 27, 1862.
Mr. Seward to Mr. Judd, No. 27, (extract).....April 3, 1862.
Mr. Judd to Mr. Seward, No. 22, with an enclosure.....April 8, 1862.
Mr. Seward to Mr. Judd, No. 28, with enclosures.....April 14, 1862.
Mr. Judd to Mr. Seward, No. 23, (extract,) with enclosures ..April 19, 1862.
Mr. Judd to Mr. Seward, No. 25, (extract,) with an enclosure..May 6, 1862.
Mr. Seward to Mr. Judd, No. 34, (extract).....July 21, 1862.
Mr. Kreismann to Mr. Seward, No. 2, (extract,) with an enclosure.Aug. 6, 1862.
Mr. Kreismann to Mr. Seward, (extract,) with an enclosure....Sept. 4, 1862.
Mr. Seward to Mr. Kreismann, No. 3.....Sept. 8, 1862.

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Mr. Judd to Mr. Seward, No. 31, (extract).....Oct. 10, 1862.
Mr. Judd to Mr. Seward, No. 38, with an enclosure.....Dec. 20, 1862.
Mr. Judd to Mr. Seward, No. 40, (extract,) with enclosures...Feb. 2, 1863.
Mr. Seward to Mr. Judd, No. 49, (extract).....March 7, 1863.
Mr. Judd to Mr. Seward, No. 47, (extract).....May 9, 1863.
Mr. Seward to Mr. Judd, No. 54.....June 6, 1863.
Mr. Kreismann to Mr. Seward, No. 6, (extract,) with enclosure.July 7, 1863.
Mr. Kreismann to Mr. Seward, No. 7, (extract).....July 20, 1863.
Mr. Seward to Mr. Kreismann, No. 2, (extract).....Aug. 11, 1863.
Mr. Kreismann to Mr. Seward, No. 13 .....Aug. 29, 1863.
Mr. Kreismann to Mr. Seward, No. 17, (extract) .....Dec. 2, 1863.
Mr. Judd to Mr. Seward, No. 64, (extract,) with enclosures....May 4, 1864.
Mr. Judd to Mr. Seward, No. 73, (extract) .....Oct. 8, 1864.
Mr. Hunter to Mr. Judd, No. 92.....June 24, 1865.
Mr. Judd to Mr. Seward, No. 103, with an enclosure.....Aug. 7, 1865.
Mr. Judd to Mr. Seward, No. 115, (extract,) with an enclosure.Aug. 9, 1865.
Mr. Judd to Mr. Seward, No. 119.....Aug. 30, 1865.
Mr. Wright to Mr. Seward, No. 4, (extract,) with an enclosure.Oct. 11, 1865.
Mr. Wright to Mr. Seward, No. 5, (extract,) with an enclosure.Oct. 16, 1865.
Mr. Wright to Mr. Seward, No. 6, (extract,) with an enclosure.Oct. 25, 1865.
Mr. Wright to Mr. Seward, No. 8, (extract) .....Nov. 15, 1865.
Mr. Seward to Mr. Wright, No. 15, (extract) .....Dec. 2, 1865.
Mr. Wright to Mr. Seward, No. 12, (extract,) with an enclosure.Dec. 16, 1865.
Mr. Wright to Mr. Seward, No. 19, (extract,) with an enclosure.Jan. 25, 1866.
Mr. Seward to Mr. Wright, No. 21, with enclosures.....Feb. 16, 1866.
Mr. Wright to Mr. Seward, No. 24.....March 21, 1866.
Mr. Seward to Mr. Wright, No. 28.....April 9, 1866.
Mr. Wright to Mr. Seward, No. 28, (extract,) with enclosures..April 18, 1866.
Mr. Seward to Mr. Wright, No. 29, (extract) .....April 25, 1866.
Mr. Wright to Mr. Seward, No. 29, (extract) .....April 29, 1866.
Mr. Seward to Mr. Wright, No. 32.....May 8, 1866.
Mr. Wright to Mr. Seward, No. 35, (extract,) with an enclosure.June 7, 1866.
Mr. Wright to Mr. Seward, No. 38, (extract) .....June 21, 1866.
Mr. Wright to Mr. Seward, No. 39, (extract,) with enclosures..June 28, 1866.
Mr. Seward to Mr. Wright, No. 40, with an enclosure.....July 5, 1866.
Mr. Seward to Mr. Wright, No. 41.....July 5, 1866.
Mr. Wright to Mr. Seward, No. 47, (extract) .....Aug. 6, 1866.
Mr. Wright to Mr. Seward, No. 58, (extract) .....Sept. 3, 1866.
Mr. F. W. Seward to Mr. Wright, No. 45, with an enclosure..Sept. 22, 1866.
Mr. Seward to Mr. Wright, No. 47.....Sept. 24, 1866.
Mr. Wright to Mr. Seward, No. 56, (extract,) with an enclosure.Oct. 22, 1866.
Mr. Hunter to Mr. Wright, No. 49, with an enclosure.....Oct. 29, 1866.
Mr. Wright to Mr. Seward, No. 62, (extract,) with enclosures..Dec. 12, 1866.
Mr. Wright to Mr. Seward, No. 63, (extract,) with enclosures..Dec. 17, 1866.

FRANCE.

Mr. Cass to Mr. Mason.

No. 189.] DEPARTMENT OF STATE,
Washington, June 27, 1859.

SIR: It is very desirable for this department to possess valuable information concerning the provisions of the French conscription laws relating to American naturalized citizens born in France who may at any time revisit their native

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country; you are therefore requested, as soon as you can conveniently, to procure and transmit such information. Does the French law under any circumstances require a native-born citizen naturalized in the United States, to serve in the army in case of his return to France? You are particularly desired to transmit the most precise information upon this point. You will see by the enclosed copy of a letter from this department to Mr. Hofer, that the condition of American naturalized citizens abroad has been brought to the attention of the government, and that its views have been distinctly stated. This government maintains the right of expatriation and naturalization; and maintains, also, that if a foreign-born citizen naturalized here returns to his native country, he is not liable to any military duty, except such as was actually due, and which he had been called upon to perform before his emigration. In any communication you may have with the minister of foreign affairs upon this subject, you will make known to him these views of the United States, Should any of our naturalized citizens be called upon to render military service, you will make yourself acquainted with the circumstances, and if the case comes within the principle I have stated, you will, in firm but temperate language, demand the release of the party, and I feel confident the demand will be complied with. If, however, the service is required because it was commenced before emigration, you will represent to the minister the hope of this government that the person may be discharged, as much ignorance prevails in this country respecting the operation of the French law in those cases, and they must be so rare that penal measures in relation to them cannot be of any importance.

I will thank you also to inform me whether by the French law naturalization in a foreign country is a right which a native-born citizen of France may exercise at pleasure, without the authorization of the government.

I am, sir, very respectfully, your obedient servant,

LEWIS CASS.

JOHN Y. MASON, Esq., &c., &c., &c.

Mr. Cass to Mr. Hofer.

DEPARTMENT OF STATE,
Washington, June 14, 1859.

SIR: In answer to your letter of the 6th instant, I have to inform you that the brief letter from this department to which you refer, dated the 17th of May last, and addressed to Mr. Felix Le Clerc, was in reply to an application for information, and was principally intended to recommend caution to our naturalized fellow-citizens, natives of France, in returning to that country, as the operations of the French conscription law were not precisely known here, and might bear injuriously upon that class of American citizens. Most of the continental European nations have a system of military organization by which their citizens are compelled to serve in the army by conscription, as in France, where the duty is designated by lot or by draft, or in Prussia, where every person is required to take his turn as a soldier.

The condition of American naturalized citizens returning to their native country, where the system of compulsory service prevails, and who had left before performing such service, has frequently been the subject of discussion with some of the European powers. Quite recently it has arisen between the United States and Prussia, and the representative of this country at the court of Berlin has brought the matter to the attention of the Prussian government. In the instructions which were sent to him, dated May 12, 1859, it was explicitly stated that this government is opposed to the doctrine of perpetual allegiance, and maintains the right of expatriation and the right to form new political ties

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elsewhere. Upon this subject it is observed, that in this age of the world the idea of controlling the citizen in the choice of a home, and binding him by a mere political theory to inhabit for his lifetime a country which he desires to leave, can hardly be entertained by any government whatever.

The position of the United States, as communicated to the minister at Berlin for the information of the Prussian government, is that native-born Prussians naturalized in the United States and returning to the country of their birth, are not liable to any duties or penalties, except such as were existing at the period of their emigration. If at that time they were in the army, or actually called into it, such emigration and naturalization do not exempt them from the legal penalty which they incurred by their desertion; but this penalty may be enforced against them whenever they shall voluntarily place themselves within the local jurisdiction of their native country, and shall be proceeded against according to law. But when no present liabilities exist against them at the period of their emigration, the law of nations, in the opinion of this government, gives no right to any country to interfere with naturalized American citizens, and the attempt to do so would be considered an act unjust in itself and unfriendly towards the United States. This question cannot of course arise in the case of a naturalized citizen who remains in the United States. It is only when he voluntarily returns to his native country, that its local laws can be enforced against him.

I am, sir, your obedient servant,

LEWIS CASS.

A. N. HOFER, Esq., *Cincinnati.*

Mr. Mason to Mr. Cass.

[Extract]

No. 407.] UNITED STATES LEGATION,
Paris, August 2, 1859.

SIR: In executing your instruction contained in your No. 189, I have found it necessary to address the minister of foreign affairs a note, of which I herewith enclose a copy. It will probably be some time before I receive a reply, and therefore it seems to me proper, without delay, to communicate the form in which I have made the inquiry. I cannot anticipate the answer. But there is no doubt that the French law recognizes the right of a Frenchman to lose his French nationality. This may be done by "naturalization in a foreign country." —(See chapter 2, book 1, of the 57 codes of 1856, title "*De la privation des droits civils.*") I can express no confident opinion as to the acknowledgment of the right of expatriation without authorization of the government. In practice no such authority is required, but the government may not acknowledge the natural right. It is not in my power, in the absence of the minister's answer, to state authentically the present condition of the law. As soon as I am favored with a reply to my note to Count Walewski, I will lose no time in again addressing the department on the subject, which is deeply interesting.

* * * * * * * * * *

I am, very respectfully, your obedient servant,

J. Y. MASON.

Hon. LEWIS CASS,
Secretary of State, Washington, D. C.

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Mr. Mason to Count Walewski.

LEGATION OF THE UNITED STATES,
Paris, July 27, 1859.

MONSIEUR LE MINISTRE: I am instructed by my government to obtain and communicate, in an authentic form, information on questions of much interest, and I have no more satisfactory mode of doing so than by invoking the aid of your excellency.

Since the discovery of the American continent, European settlement, either by colonization or emigration, has peopled that vast region.

In that portion of the continent within the limits and jurisdiction of the United States, express provision was made in the federal Constitution giving power to Congress to pass uniform laws of naturalization. This grant of power, and the duty resulting from it, were founded on the fundamental doctrine of the natural right of man to expatriate himself from the country of his origin; relinquish the duty of allegiance which he owes it, and the right to its protection which a citizen or subject may rightfully claim from that government to which he owes allegiance. Laws for the naturalization of foreigners have been passed and executed in the United States from the beginning. In their practical administration the stranger is required to declare his intention to become a citizen of the United States; to renounce his duty of allegiance to any foreign sovereign or state, and all the rights which may pertain to him from the government to which the accident of birth may have made him subject; and, after the lapse of a prescribed term of years, he is permitted to consummate his right of naturalization formally and solemnly in a court of record. Thus assuming allegiance to the United States, he separates himself from the country of his origin, and becomes entitled to the rights of citizenship, and, among them, that of protection from the country of his adoption.

The vast exodus from the Old to the New World has, in the persons of emigrants and their descendants, added to the productive industry of the country, increased the number of good citizens, and swelled the population of the United States to a number probably little short of thirty million inhabitants. It has necessarily raised questions of the gravest import. The United States, acting on the admission that man has an inherent right to change the domicil which nature gave him in the place of his birth, and to pursue elsewhere happiness and safety, has received with hospitality strangers who elected to cast their lot in the country and sought the rights of citizenship. But their policy has not been to entice away the people of other countries, or to protect them against responsibilities which in good faith attached to them. The change of residence and of allegiance necessarily involved delicate questions, and the attention of the federal government has been drawn to the subject with an earnest desire to discharge fully and justly its duty, as well to the adopted citizen, as to the government of the country of his origin, at the same time to avoid controversy with foreign governments by guarding against any conflict of laws.

My government, with this honorable policy, has instructed me to obtain for its use authentic information as to the laws of France on the subject, especially in reference to the claim of military service exacted of one born in France, who had become a naturalized citizen of the United States.

I respectfully request that your excellency will have the goodness to give me the desired information in reply to the following questions:

I. Does the French law recognize the right of a native-born citizen of France to exercise, without the authorization of his government, the right of becoming a naturalized citizen or subject of a foreign country?

II. If such a person shall have become actually naturalized in the United States, and shall revisit France, without taking the steps prescribed in the

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French law to recover his lost nationality, and without the intention to remain permanently in France, does the French law, under these circumstances, authorize a claim that he shall be required to serve in the French army?

The government of the United States maintains the right of expatriation, and maintains, also, that if a foreign-born citizen, naturalized in the United States, returns to his native country without the intention of relinquishing his acquired naturalization in the United States, he is not liable to military duty, except such as was actually due, and which he had been called upon to perform before his emigration.

I am aware that a native-born Frenchman may by law lose his French nationality by the act of naturaliztioan in a foreign country. From this it necessarily results that he may lawfully acquire the character of a naturalized citizen of such foreign country, if he shall not have recovered the French nationality which he may have thus lost.

III. Does the recruitment law of France make him, on a casual return to France, liable to military service to the same extent as if he had not left the country of his birth and become naturalized abroad? If this liability continues at all, how far does it extend?

If a French youth, under the recruitment law of France, shall have been called on before his actual emigration to enter the military service, and after this existing liability shall emigrate to the United States, become there a naturalized citizen, and return temporarily to France, the principle maintained by the United States will not protect him from fulfilling in good faith the duty thus attached, any more than to deny his submission to the French jurisdiction for trial and punishment of crime committed, or to liability for pecuniary responsibility actually incurred.

The questions involved in the personal and civil condition of a naturalized foreigner, in respect to his old and new allegiance, are such that it is desirable to avoid any conflict of law between the United States and France. I sincerely hope that your excellency will give me such information in reply that my government will have no reason to anticipate any want of accord between the governments of France and the United States on the delicate and interesting questions involved.

I have much reason to express my thanks that during my residence in France the imperial government has observed the most liberal conduct towards citizens of the United States, whether native or naturalized. There is no existing case here which gives cause of complaint. I make the inquiries suggested in this note with a purpose to secure accord in the future, and to avoid questions which probably would result from any conflict of law between the two countries on a subject peculiarly delicate.

With assurances of my high consideration, I am, very respectfully, your excellency's obedient servant,

J. Y. MASON.

His Excellency COUNT WALEWSKI,
Minister of Foreign Affairs, France.

Mr. Calhoun to Mr. Cass.

No. 11.] LEGATION OF THE UNITED STATES,
Paris, December 6, 1859.

SIR: In your despatch No. 189, dated Washington, June 27, 1859, you instructed Mr. Mason to procure and transmit to the Department of State reliable information concerning the French conscription laws relating to American naturalized citizens born in France, who may at any time revisit their native country.

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A copy of Mr. Mason's letter on this subject, addressed to his excellency Count Walewski, accompanied his despatch No. 407, dated Paris, August 2, 1859.

I have the honor now to transmit a copy of the reply of the minister of foreign affairs to Mr. Mason's communication.

I have the honor to be, very respectfully, your obedient servant,

W. R. CALHOUN.

Hon. LEWIS CASS,
Secretary of State, Washington.

Count Walewski to Mr. Calhoun.

[Translation.]

PARIS, *November* 25, 1859.

SIR: I have the honor to communicate to you the reply of the government of the Emperor to the question which the deceased Mr. Mason had put to him in his letter of 27th July last, relative to Frenchmen emigrants to the United States, who have there obtained letters of naturalization.

After having set forth the principles of the American law in the matter of naturalization, Mr. Mason reduced his inquiry to a formula, as follows:

First question. Does the French legislation recognize in individuals, French by birth, the right to cause themselves to be naturalized as subjects or citizens of a foreign country without preliminary authorization from the government?

French legislation does not confer on a Frenchman the right to renounce his nationality, but he loses it by positive law (art. 7, Code Napoleon) through naturalization in a foreign country.

That naturalization, by the terms of the decree of August 26, 1811, may have grave consequences, provided for by that decree, when it has not been authorized by the government.

Even in cases in which such authorization has been accorded, it effectively disposes the prejudicial results of an unauthorized naturalization, but expressly maintains the loss of nationality.

Second question. Are Frenchmen by birth, but naturalized citizens of the United States, who return to France without having the intention to recover their nationality, or to establish themselves permanently, subject to the law of conscription?

The law of conscription imposes on every Frenchman the obligation of military service. It attaches to the fulfilment of this obligation a penal sanction.

Therefore, the Frenchman who, before he had lost that quality, shall have emigrated, thus placing himself out of the way of the obligation of military service, would assuredly be punishable on his return to France, even though he should have obtained a foreign naturalization; and he may be prosecuted, whether as refractory (article 230, *du Nouveau Code Militaire, loi du* 9 *Juin*, 1859) or as a deserter, (articles 235, 236, 237, of same date.)

This, moreover, is recognized by the government of the United States, as it is a sequence from the letter of Mr. Mason that it refuses its protection to the Frenchman becoming a stranger in the two cases following:

1. If the obligations of military service be anterior to the epoch of emigration.

2. If before his emigration the Frenchman had not satisfied the law of conscription. The question becomes more difficult when it treats of a man born abroad of French parents, and who, consequently, by the provisions of article 10 of Code Napoleon, is himself a Frenchman, and bound to military service in conformity with article 6 of the law of the 21st of March, 1832.

But if in France the quality of citizen is now actually acquired by parentage,

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yet for a long time nativity alone conferred it, and it may still be so in the United States. In such a case it would be hard to subject to French law an individual who should have fulfilled similar obligations towards the country in which he was born.

Third question. Does the French law of conscription render the Frenchman born and resident in a foreign country subject to military service in the same degree as if he had not left the country of his birth, or as if he had not caused himself to be naturalized as a foreigner?

This question is disposed of by the solution which the federal government itself admits to the second.

If, in effect, the Frenchman, before emigration, and causing himself to be naturalized in a foreign country, has not satisfied the obligation of military service, evidently he may be prosecuted in France, in case of his return, even though the return should be only accidental. Besides, he might, during his absence, have been sentenced for contumacy, and his presence in France would impose as well on the public authority as himself the duty of clearing off this contumacy.

Such are the solutions which the three questions that the legation of the United States have presented to me can receive. It is difficult, moreover, to treat them theoretically, without knowledge of the circumstances which may have given birth to them, which often are of a nature to draw out modifications of the application of strict law.

I will add that all the points treated in the present despatch present veritable questions of State upon which the government of the Emperor can only express opinions, but the solutions belong exclusively to the courts.

Receive, sir, the assurance of high consideration with which I have the honor to be,

Your very humble and obedient servant,

WALEWSKI.

Mr. CALHOUN,
Chargé d'Affaires of the United States at Paris.

Mr. Cass to Mr. Calhoun.

No. 7.] DEPARTMENT OF STATE,
Washington, December 31, 1859.

SIR: Your despatch, No. 11, of the 6th instant, has been received. You are aware of the circumstances which make it important that we should have precise information in regard to those provisions of the French law which may affect naturalized citizens of the United States. The note of Mr. Mason to Count Walewski, of the 27th of July last, expresses the views which are maintained by the United States in regard to the exemption from involuntary military service due to their naturalized citizens in foreign countries, and is entirely approved by the President.

The principles of the French law, as explained by Count Walewski in his note to you of the 25th ultimo, might, if severely enforced, affect the rights of American citizens, and we indulge the confident expectation that the French government will take such measures as may be necessary to prevent persons born in France and naturalized in the United States, when returning for temporary purposes to the land of their birth, from being held responsible for the non-performance of any military duty, unless they had actually been called upon to perform such duty previous to their emigration. There is a misapprehension upon this point in Count Walewski's note which it is important should be corrected, and you will embrace the first favorable opportunity for this purpose. It is not understood that under any circumstances is a returned Frenchman, naturalized

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in the United States, liable to be required to perform military service, but he is held criminally responsible and subject to punishment for having left France without fulfilling every duty which, during life, he would be held to render. Count Walewski supposes that this is a principle also recognized by the government of the United States. In this, however, there is a grave error; the note of Mr. Mason does not justify this inference. The minister of foreign affairs deduces from it the admission that the United States refuse their protection to the Frenchman become a naturalized citizen in the two following cases:

First. If the obligation of military service be anterior to the epoch of emigration.

Second. If, before his emigration, the Frenchman had not satisfied the law of conscription.

The positions are not in accordance with the principles maintained by the United States, nor are they legitimate deductions from the views presented by Mr. Mason. On the contrary, his note states clearly and briefly our doctrine to be, that the naturalized emigrant cannot be made responsible on his return for any military duty, unless he had been actually required to perform it before his emigration. We do not recognize the binding obligation of contingent duties, depending for their performance upon time and other future circumstances. Accompanying this you will receive the copy of a letter* of instructions, of the 8th of July last, to the minister of the United States at Berlin, respecting a case affecting an American citizen, which recently occurred in the kingdom of Hanover. This despatch, together with the letter of Mr. Hofer, of which you have a copy, contains the views of this government on the subject of the rights of naturalized American citizens returning to their native country. You will also receive herewith a copy of two other despatches, on the same subject, to our minister at Berlin. It is considered unnecessary to enter at present into any further consideration of the matter.

It is very desirable that an understanding should exist between this government and that of France, by which all danger of collision upon this important subject should be avoided. We cannot believe that the pretension to punish an American naturalized citizen for leaving France, when by so doing he violated no actual existing duty he was then required to perform, will be enforced in France. It is not expected you shall urge this subject with undue haste, as there is no practical case requiring action; but as opportunity offers you will present it to Count Walewski, explain to him precisely the position we occupy, and make known to him our wish that the French government should adopt such measures as should protect American citizens, under the circumstances stated, from being interfered with on their return to France.

There is one remark in the note of Count Walewski to you to which it may be well to advert. It is stated that, by the French code, a man born abroad of French parents is bound, on his return, to perform military service; but I understand it to be conceded by Count Walewski that this provision does not apply in cases where such person is born in a country which recognizes nativity as carrying with it the right of citizenship. That is an essential part of our political institutions, and the soundness of the French position is, therefore, no subject for our consideration.

I am, sir, respectfully, your obedient servant,

LEWIS CASS.

W. R. CALHOUN, Esq., &c., &c., &c.

* For this enclosure see Senate Ex. Doc. No. 38, 36th Congress, 1st session, page 132.

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Mr. Faulkner to Mr. Cass.

No. 9.] LEGATION OF THE UNITED STATES,
Paris, March 14, 1860.

SIR: I received on the 8th of this month, from Mr. Thouvenel, minister of foreign affairs, a letter in reply to one addressed to him by Mr. Calhoun on the 21st ultimo, relative to the case of Michael Zeiter, a native of France and a naturalized citizen of the United States, a copy of which letter I herewith forward to you.

Michael Zeiter has never at any time been in correspondence with this legation, nor has he ever made any direct appeal to it for relief. His letters have been addressed to Mr. Spencer, the American consul at this place, who, like me, is at this moment entirely ignorant of his present condition, as will more fully appear by my correspondence with him accompanying this despatch, to which I respectfully refer you.

As the information now sought by me through the American consul may impart to this case a character of no little interest and importance, I take the liberty of inviting your attention to it at this early moment.

It is clear, from the facts disclosed in the letter of Mr. Thouvenel, that Zeiter is an American citizen, entitled to the prompt and decided interposition of his government, if it shall prove upon inquiry that he is now performing compulsory service in the French army; and the fact relied upon by Mr. Thouvenel of his enrolment in 1850, ten years prior to the consummation of his rights as an American citizen, as depriving him of a rightful claim to our protection, is a position which I apprehend will not be acquiesced in by the government of the United States.

It seems that Zeiter was born in France on the 14th of May, 1830; that he emigrated from his native country in 1846, when but 16 years of age, and, consequently, *four* years before he had attained to that age which subjects a young man, by the laws of France, to the compulsory performance of military service. (See "*Loi sur le recrutement de l'armée promulguée, le* 21 *Mars*, 1832, *Codes* 1856, p. 712.") Notwithstanding he was thus absent from France, his name was enrolled in 1850 in his commune, as one from among whom the contingent for the army was to be filled. Learning prior to the "*tirage*" that he had four years before left the country, his name was erased from the registry. Upon his return, however, in 1859, his name was again inscribed upon the roll. It is understood that the "*tirage*" for that commune was fixed for the 25th of February last; but what its result has been, so far as Zeiter is concerned, I have no information. He may have been so fortunate in his drawing as to escape the conscription; and if so, both he and his government will be saved some trouble.

We have no article in any of our treaties with France similar to those contained in our conventions with Hanover and Prussia, and which in such clear and explicit terms guarantee the personal rights of American citizens residing in those countries, and which provisions were quoted and used by you with such conclusive effect in aid of your general reasoning on that subject in the cases of the naturalized citizens who were sought to be subjected to military service in those two kingdoms a few years ago. Should I be so fortunate as to negotiate a treaty with France, it would be advisable, if possible, to have those articles incorporated *(inter alia)* among its provisions. I shall avail myself of an early occasion, in a letter to Mr. Thouvenel, (whether the case of Zeiter shall assume a form for my practical interposition or not,) to review the communication of Count Walewski to Mr. Calhoun of the 25th of November last, and, in a concise explanation of the fixed policy of my government, to show wherein Count Walewski has misconceived the views of my predecessor, Mr. Mason, and also the views entertained by the government of the United States on this subject.

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I am fully aware of the extreme delicacy of the questions which may arise in the case of Zeiter, involving, as they do, not simply a conflict between the municipal law of sovereign and independent nations, but antagonistical theories in respect to those rights which attach to man in a condition of society, and which form the respective bases of free and despotic governments. In truth, there cannot, in the nature of things, be any solution of such difficulties but in an open appeal to arms, or in that spirit of international courtesy and forbearance which prompts concessions for the sake of peace. They present, therefore, a class of cases in the highest degree proper for conventional arrangement among nations, or for wise and discreet diplomatic action, where no treaties bearing on that point exist between two countries. I am also aware with what little favor a proud and powerful military government like France will look upon doctrines which sap the foundations upon which her vast military organization now reposes. And yet, I take it for granted that it is your wish that I shall, in firm and decided terms, bring to the knowledge of the French government the principles to which we stand pledged on this subject, and also to state, without reserve, the obligations of protection which we recognize as resulting from our system of naturalization. And, should a case proper for my interposition occur, you will no doubt expect me to enforce and vindicate the clearly announced views and policy of my government to the full extent of the powers vested in me as the representative of my country.

I am, very respectfully, your obedient servant,

CHAS. J. FAULKNER.

Hon. LEWIS CASS,
Secretary of State.

Mr. Calhoun to Mr. Thouvenel.

LEGATION OF THE UNITED STATES,
Paris, February 21, 1860.

MONSIEUR LE MINISTRE: The consul of the United States has forwarded to me a letter addressed to him, a copy of which I have the honor herewith to enclose.

The case of Mr. Michael Zeiter is urgent, as the tirage takes place on the 25th instant, and I am in haste to invoke the interference of his Majesty's government, if it comports with your excellency's views.

The principles involved are of serious interest to the government of the United States, and on another occasion I shall have the honor to renew the subject.

With renewed assurances, &c., &c.,

W. R. CALHOUN.

His Excellency Mr. THOUVENEL,
Minister of Foreign Affairs.

Mr. Thouvenel to Mr. Faulkner.

[Translation.]

PARIS, *March* 6, 1860.

SIR: By a letter under date 21st February last Mr. Calhoun called my attention to a reclamation raised by Mr. Michael Zeiter, naturalized American citizen, against his inscription in France on the list of men required to draw lots to form the contingent of the year. Monsieur the minister of the interior, to whom I took care to write on the subject of this affair, has just informed me of the circumstances by reason of which Mr. Zeiter finds himself subjected to the

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recruitment law. This person, born at Uhrwiller the 14th May, 1830, was placed, in 1850, on the recruitment lists of this commune, but his existence not being notorious, seeing that he had left the country in 1846, he was struck off before the operation of drawing lots, and it was only when he was seen, on his return to Uhrwiller in 1859, that he was inscribed in the list of 1859, as omitted from the class of 1852. The certificate of naturalization in the United States is of the 27th October, 1852—that is to say, posterior to the obligations which his character of Frenchman imposed upon him in 1850, 1851.

Mr. Zeiter cannot, then, rely on his title of foreigner to demand his being stricken off from the recruitment list of 1859, in which he figures as a conscript of 1850; and you will comprehend, Monsieur Minister, that Monsieur le ministre of the interior could not entertain his reclamation. He has in consequence been retained in the contingent of his commune, and the council of revision, to which appeal is open to him, will decide definitively.

Accept the assurance of the high consideration with which I have the honor to be, Mr. Minister, your very humble and very obedient servant,

THOUVENEL.

Mr. Faulkner to Mr. Spencer.

LEGATION OF THE UNITED STATES,
Paris, March 8, 1860.

DEAR SIR: I have to-day received a letter from Mr. Thouvenel, minister of foreign affairs, in reply to one addressed to him, on the 21st of February last, by Mr. Calhoun, relative to the case of Michael Zeiter, a native of France and a naturalized citizen of the United States, who, it would seem, is at this time held subject to the performance of military duty by the French government.

As no direct appeal has ever been made by Mr. Zeiter to this legation, and as all the information which it has acquired of the facts of his case has been received through you, you will oblige me by informing me what the precise condition of the demand of the French government is at this time upon him. Is Zeiter actually enrolled and now performing military duty in the French army? or, has his name, without any invasion of his rights of personal liberty, been simply placed upon the list of those who are required to draw lots to form the contingent of the army for the present year? Has the *tirage au sort* already taken place? If so, has the burden of military service fallen upon Zeiter, or has he escaped the service by the intervention of his own good fortune? Have you heard from him at all since the *tirage au sort?*

Please inform me on all these points, that I may determine upon the course which my duty may require me to take in his case.

Very truly, your obedient servant,

CHARLES J. FAULKNER.

HENRY M. SPENCER, Esq.,
American Consul at Paris.

Mr. Spencer to Mr. Faulkner.

UNITED STATES CONSULATE,
Paris, March 12, 1860.

DEAR SIR: I have the honor to acknowledge the receipt of your communication under date of the 8th instant, relative to the case of Michael Zeiter. As I am ignorant of the result of the *tirage au sort* which took place some weeks since, not having heard from Zeiter since it took place, I have written to him

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again upon the subject; and so soon as I receive his reply, I will have the honor of addressing you an official communication, giving you all the particulars you ask for.

Respectfully and truly, your obedient servant,

HENRY W. SPENCER.

Mr. CHARLES J. FAULKNER,
American Minister at Paris.

Mr. Faulkner to Mr. Cass.

No. 15.] LEGATION OF THE UNITED STATES,
Paris, March 30, 1860.

SIR: Being desirous of placing you in possession of all the facts and circumstances connected with the case of Michael Zeiter, as they transpire, I herewith send you a copy of a letter, bearing date the 16th of March, 1860, addressed by Zeiter to the American consul at this place, in reply to an inquiry which I requested the consul to make of him as to the present condition of the claim of the French government upon him for military service.

I also herewith send you a copy of a letter addressed by me to Zeiter, on the 20th day of the present month.

I have as yet received no information of any decision made by the *Conseil de Revision* upon his case, nor have I heard from him since the date of his letters to the American consul.

I am, very respectfully, your obedient servant,

CHARLES J. FAULKNER.

Hon. LEWIS CASS,
Secretary of State, Washington, D. C.

Mr. Zeiter to Mr. Spencer.

[Extract.—Translation.]

UHRWILLER, NEAR NIEDERBRONN, LOWER RHINE,
March 16, 1860.

SIR: * * * * * * * * *

On the 25th February I repaired to the chief town of the canton, where the draft was to take place, not to see my name drawn, but to have it erased from the enrolled list. Though I had often asked to have it struck off, I was not certain whether it had been done or not. I saw the sub-prefect of the district, who told me my name was still on the list, and that I would be compelled to draw, or the mayor would draw for me. Thus I was forced to stand the chance of being drafted.

But before drawing, I again protested against my enrolment, because I was proved to be an American citizen by my certificate, then in the sub-prefect's hands. That magistrate informed me I must draw, whether I was exempt or not; and that the appeal board would decide my case afterwards. If I was drafted, the tribunal of first instance would give a judgment upon my identity and American nationality, and a copy of that judgment must be sent by me to the president of the council of revision, for final decision. According to the order of the sub-prefect I drew; No. 20 fell to my lot; I then went to the canton town to get the judgment. My papers were in Strasburg. I asked the sub-prefect to send for them, to be used by a lawyer in Wissembourg in my case. The lawyer whom I consulted in February advised me to go to the chief town

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of the district, where I went the day before yesterday, the 14th of March. My certificate and passport were there, and the sub-prefect allowed my lawyer to take copies of them to be used in the suit.

The lawyer did not tell me if he wanted my consular certificate; but I thought it would be of use in the preliminary trial.

I can furnish you with an authentic copy of all my papers.

* * * * * * * * * *

MICHAEL ZEITER.

United States CONSUL *in Paris.*

Mr. Faulkner to Mr. Zeiter.

LEGATION OF THE UNITED STATES,
Paris, March 20, 1860.

DEAR SIR: Mr. Spencer, the American consul at this place, has to-day transmitted to me your letter to him of the 16th instant.

I am much pained to learn the difficulty in which you have become involved, and yet I hope that the *conseil de revision* will afford you an early liberation from the anxieties which now disturb you.

The facts show very satisfactorily that you are a citizen of the United States, entitled to the sympathy and protection of that parental and powerful government; and that sympathy and protection you, and all others similarly situated, shall receive so long as I have the honor to be its representative at this court.

I would, nevertheless, advise you to continue the prosecution of the appeal which you have already taken, and which is now pending before the *conseil de revision.* Should that tribunal decide in favor of your exemption from service in the French army, there will be an end of the case, so far as you are concerned. If it shall decide to retain you as a conscript, in defiance of your protest to the contrary, I wish you to give me the earliest information of its judgment.

I still cherish the hope that the *conseil de revision* will lend a prompt and favorable ear to your protest; that it will recognize you in your true character of an American citizen, and thus save me from the necessity of demanding, in the name of my country, your discharge from a service which ought not to be required of you.

I am, very truly and respectfully, yours,

CHARLES J. FAULKNER.

MR. MICHAEL ZEITER.

Mr. Faulkner to Mr. Cass.

No. 17.] LEGATION OF THE UNITED STATES,
Paris, April 7, 1860.

SIR: In a former despatch I announced to you my intention at some early day to review Count Walewski's letter of the 25th of November last, and to present to the present minister of foreign affairs a brief exposition of the views of the government of the United States on the question of naturalization. In fulfilment of that purpose, I addressed to Mr. Thouvenel the letter the copy of which accompanies this despatch.

Hoping that the exposition here made may meet your approval,

I am, very respectfully, your obedient servant,

CHARLES J. FAULKNER.

Hon. LEWIS CASS,
Secretary of State.

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Mr. Faulkner to Mr. Thouvenel.

LEGATION OF THE UNITED STATES,
Paris, April 2, 1860.

MONSIEUR LE MINISTRE: I had the honor to receive your letter of the 6th of last month, in reply to one which had been addressed to you by the chargé d'affaires at this place, calling attention to the case of Michael Zeiter, a native of France, but now a naturalized citizen of the United States, from whom military service in the French army is now claimed.

Since the receipt of your communication I have caused inquiries to be made as to the present condition of this demand upon M. Zeiter for service in the French army; and I learn that, in defiance of the annunciation of his character as a citizen of the United States, and the exhibition of his certificate of naturalization and passport as such, he was required to submit to the "*tirage au sort;*" that he drew an unfortunate number, and, continuing to protest against his liability to this military service, he has taken an appeal to the *conseil de revision*, which appeal is at this time pending and undetermined. I have requested Mr. Zeiter to advise me at the earliest moment of that decision. I cherish the hope that it will result in his discharge from a service which ought not to be claimed of him.

Whether I shall ever be required in any future communication to your excellency to refer to this particular case again or not, its occurrence at this time furnishes an appropriate occasion to present with distinctness the views of my government on this delicate and interesting question, especially as these views do not seem to have been perfectly understood by your predecessor, Count Walewski, and as the misapprehension under which he evidently labored, if not corrected, might lead to future embarrassments.

On the 27th of July, 1859, Mr. Mason addressed a letter to Count Walewski, asking information upon several points, touching the effect and operation of the French law upon a native of France who had emigrated to a foreign country and had there become naturalized; and in that letter he thus briefly alludes to the doctrine maintained by the government of the United States upon that subject:

"The government of the United States maintains the right of expatriation, and maintains, also, that if a foreign-born citizen naturalized in the United States returns to his native country, without the intention of relinquishing his acquired nationality in the United States, he is not liable to any military duty, except such as was actually due and which he had been called upon to perform before he emigrated."

On the 26th of November last, Count Walewski replied to these interrogatories of Mr. Mason, furnishing information, &c., in reference to the French code upon the points suggested; and, while declaring the French law, deduces from the above extract from Mr. Mason's letter the admission that the United States would refuse their protection to a naturalized Frenchman in the two following cases:

1st. If the obligation of military service be anterior to the epoch of emigration.

2dly. If before his emigration the Frenchman had not satisfied the law of conscription.

These last positions are not in accordance with the principles maintained by the United States, nor are they legitimate deductions from the views presented by Mr. Mason. On the contrary, the extract above quoted states, briefly and clearly, our doctrine to be that the naturalized emigrant cannot be held responsible upon his return to his native country for any military duty, the performance of which had not been actually demanded of him prior to his emigration.

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A prospective liability to service in the army is not sufficient. The obligation of contingent duties, depending for their exaction upon time, sortition, or events thereafter to occur, is not recognized. To subject him to such responsibility, it should be a case of actual desertion, or a refusal to enter the army after having been actually drafted, or called into it, by the government to which he at the time owed allegiance. The delinquency for which responsibility is admitted must have been committed while he was still a subject and owed allegiance to that government, and the offence must have been complete before his expatriation. It must have been of such a character that he might have been tried and punished for it at the moment of his departure.

These conclusions all flow logically from the principles of our government, and from our long-established system of naturalization.

The political institutions of the United States are founded upon the broadest concession of personal and individual liberty consistent with the peace and good order of society. No exercise of personal liberty is held more essential to human happiness than the right of a man of mature years to abandon a community whose laws, religion, climate, form of government, or system of industrial pursuits are found destructive of his peace and comfort, and to identify himself with another nation or people, if consistent with their policy, whose tastes and institutions are more congenial to his own. Accordingly, from the earliest period of its existence as a nation the rights of expatriation have been both theoretically and practically maintained by the United States as a vital and incontestable attribute of our nation. Among the grievances set forth in our Declaration of Independence, and which led to a severance of the then colonies of the British empire, was the effort of the King of Great Britain to obstruct laws for the naturalization of foreigners. And the Constitution of the United States, subsequently adopted, recognizes the natural right of expatriation by conferring upon Congress the power to establish a uniform rule of naturalization.

These principles are not peculiar to the United States. They are approved by many of the most distinguished writers upon public law, both in Germany and France, and are practically recognized in the legislation of almost every nation in Europe.

In pursuance of the powers conferred by the federal Constitution, Congress, among its earliest enactments, established a uniform rule of naturalization. These laws, with some occasional modifications, have been in force from that time to the present moment, a period of seventy years. Under the influence of that policy we have grown from a feeble confederacy of thirteen States to a powerful empire, embracing thirty-two States and four Territories, capable of subdivision into as many more; from three millions to a population of upwards of thirty-three millions. By these laws an alien, in order to become a citizen, must declare, on oath or affirmation, that he will support the Constitution of the United States, and at the same time he is required to "absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state or sovereignty whatever, and particularly by name the prince, potentate, state or sovereignty whereof he was before a citizen."

The effect which this act of naturalization operates under the law and Constitution of the United States upon the civil and political status of the foreign emigrant is obvious. From the moment of his naturalization he becomes incorporated as a full member of our political society, possessed of all the rights and immunities of a native-born citizen, with the single qualification that he is not eligible to the office of Chief Magistrate of the republic. With that single exception he is in every respect, and for every purpose, an American citizen, upon a footing of perfect equality with the native-born citizen. His allegiance to his native country is by this act severed forever. He experiences a new

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political birth. A broad and impassable line separates him from his native land. Should he return there for temporary purposes of business or pleasure, he goes there an American citizen with all the privileges and obligations of his new nationality fully impressed upon him.

No government recognizes more distinctly than that of the United States the right of any independent nation to exercise exclusive jurisdiction within its own territory. If, therefore, an American citizen, native-born or naturalized, seeks a temporary residence in a foreign country, he is expected by his government to obey its municipal laws equally with those who are its permanent citizens. He goes abroad with a presumed knowledge of its institutions; he pledges a tacit obedience to its municipal requirements when he seeks admission to its jurisdiction; and even if they be arbitrary and unjust, provided they are administered in a spirit of impartiality to him and others, the government of the United States would never feel itself required to interfere authoritatively in his behalf. If he violates a law of the country of his temporary residence, he is liable to be there tried and punished for it; if he escapes before trial and punishment, his liability upon principles of universal law revives with his return to its jurisdiction. Giving a more particular application of these principles to the case of a foreign immigrant, of whom military service is required, the government of the United States maintains that if, prior to his emigration, and while subject to the municipal jurisdiction of his native government, an actual call is made upon him for military duty, and that call is evaded by desertion or disobedience, it would not interfere to relieve him, in the event of his return, from the penalties of such contumacy or desertion, notwithstanding in the mean time he had acquired the character of an American citizen. But if years before any such actual call is made—if years before any such call could, by the laws of his native country, be made upon him, he emigrates and becomes a naturalized citizen of the United States, that government could not regard with indifference the attempt, under such circumstances, to subject him, upon his return, to military service. This distinction, so clearly recognized and announced by the government of the United States, rests upon broad and intelligible principles of public law, and is the only position that can be adopted without overthrowing our entire system of naturalization, violating the organic bases of our society, and making a discrimination between native-born and naturalized citizens, which the Constitution, laws, and policy of our government alike forbid.

It does not appear from the exposition which Count Walewski has made of the French law in his letter of the 25th of November last, that a Frenchman, naturalized in the United States and returning to his native country, would, under any circumstances, be required to perform military service; but he is held criminally responsible and subject to punishment for having left France without having performed a certain service which, during life, he is required to render. Count Walewski supposes that this principle of criminal responsibility is conceded by the government of the United States. This is unquestionably true to the extent and within the limits which I have already indicated—that is to say, where the offence is complete, and the act a proper subject for trial and punishment before expatriation. But I deem it unnecessary to complicate this inquiry by any discussion of the question of penal responsibility, as I am not aware of any case where any punitive proceedings have been initiated against any citizen of the United States, nor where any such were in contemplation.

From the proceedings, however, which have already taken place in the case of Zeiter, still *sub judici*, the liability of a naturalized citizen to the performance of military duty may be deemed a more urgent and practical inquiry, and should there arise hereafter any occasion for an appeal to the interposition of your excellency, I hope I may find a concurrence on your part in the deductions which I draw from Count Walewski's letter, that, even according to the law of France, Zeiter is not justly liable to the service now claimed of him.

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It seems to me that a careful consideration of the law of France leads to the following conclusion:

1st. That no one who has lost his French nationality, and who is regarded by the law in the light of an alien, can be forced or will even be admitted to serve in the French army.

2dly. That every Frenchman naturalized in a foreign country thereby loses his French nationality and becomes disqualified for service in the army.

The first proposition seems to be very clearly settled by the 2d article of the law of the 21st of March, 1832, *sur le recrutement de l'armée*, which declares that "none but Frenchmen shall be allowed to serve in the French army." To be a soldier is not only a duty, but a privilege, for the enjoyment of which the French nationality is declared an essential requirement. The want of it is required not simply as a plea of immunity, but as a ground of absolute disqualification. To such an extent is this held to be an essential requirement to military service, that whilst the failure of a recruit to plead many just causes of exemption before the *conseil de revision* will forever afterwards preclude him from their benefit, no laches or neglect on the part of the foreigner in claiming exception on that plea will estop him from having the benefit of that defence. Such, at least, I observe, was the decision of the court of cassation in the case of a man unduly drafted into the national guard, and who had not availed himself in time of the proper steps to have his name erased from the rolls. For that case, reported in the case of Dallas, Droit Civil, No. 229, it was decided 10th July, 1834, "that the plea of extraneity is peremptory; that this conclusion results not merely from the right of the alien, but also from a *legal incapacity* on his part to be admitted into the ranks of the national guard." The same incapacity would doubtless protect him from service in the army.

The next inquiry is, what is the effect of naturalization in a foreign country upon the civil and political status of a Frenchman? Does it destroy his French nationality? Does it forfeit his quality of a Frenchman?

The law seems to be as free from difficulty on this as on the first point. It is contained in article 17, sec. 1, chap. 2, liv. 1 of the civil code, "The quality of a Frenchman shall be lost by naturalization acquired in a foreign country." If a preposition announced in terms so clear required any illustration it might be found in the report made by Mr. Treilhard on this section to the legislative body, in which he assigns as a reason for its adoption, "that no person can have two countries." By naturalization he acquires the country of his adoption—by the same act he loses the country of his birth.

Count Walewski refers to the decree of the 26th of August, 1811, as imposing penalties of a serious character in the case of a Frenchman becoming naturalized in a foreign country without the consent of his government. This is true, but what is the obvious spirit and plain effect of that decree? It will not be contended that it abrogates the 17th article of the code, or that it renders inoperative in France the act of naturalization in a foreign country. Its manifest design is undoubtedly to discourage the naturalization of its native inhabitants in a foreign country, but this it seeks to accomplish, not by declaring the act void in its legal effect in France, but by recognizing the condition of alienage, which he has assumed, and adding to the penalty of denaturalization previously denounced the further consequences of forfeiture of property, loss of veritable quality, and deprivation of right of future residence in France. These penalties are all based upon the admission that the act of naturalization in a foreign country has destroyed his quality as a Frenchman, and deprived him of his French nationality. He is thus placed wholly beyond the pale of French protection at home and abroad.

Allegiance cannot be claimed when protection is denied. The exaction of military service is the highest exercise of sovereign power over the personal rights and liberties of the people. It is the burden imposed upon the citizen in

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consideration of that protection which it extends to him against foreign and domestic violence; and is it possible to conceive that such service can be justly demanded of one who is disowned by the government thus making the demand, from one who by its laws stands despoiled of his property, deprived of the rights of succession and inheritance, and liable at any moment to be expelled from the empire?

It appears from the letter of Count Walewski, as also from the laws to which he refers, that naturalization acquired in a foreign country, whether with or without the previous consent of the government, alike operates a loss of French nationality, and places the individual in the relation of alienage to his native government; the only difference being in the penalties prescribed in the one case, and the greater facilities afforded for recovering his lost nationality in the other.

Your excellency cannot fail to appreciate the reasons of that quick sensibility which the government of the United States has always manifested upon every question touching the rights of our adopted fellow-citizens. They constitute a most important and valuable part of our population; they have united their personal destinies to those of the republic; they have contributed largely to its prosperity, progress, and power; they have shown themselves ever faithful to its fortunes and loyal to its institutions; and they have a right to expect that a power which they have in part created, and a government to which they have testified such devotion, shall be at all times prompt to extend to them the national protection to which they are entitled. To the policy of emigration and the principle of naturalization do we owe the present greatness of our republic. Europe has not suffered by the policy; America has largely benefited by it.

The principal sources of the emigration into the United States have been and are Great Britain, Ireland, and the German states. We have fortunately succeeded, so far, in having adjusted without difficulty these occasional points of international conflict growing out of the questions of new and old allegiance. In no single instance, so far, have the views and wishes of the government of the United States in reference to the personal rights and liberties of its adopted citizens been perseveringly resisted by any government in Europe; the uniform policy of that country being to demand nothing but simple justice for her own citizens, and at the same time to accord respect to the municipal rights and sovereign authority of independent states.

The emigration from France has been comparatively small, and is diminishing every year; and of those from that country who have been led by a spirit of adventure and enterprise to visit the New World, the number is again proportionally small who have identified themselves with our institutions and have changed their allegiance from their native land. This may result somewhat from causes of an ethnological character; but it is more than probable that it has resulted from a sentiment of national pride, and from that ample field for enterprise and labor which the growing and advancing destinies of this great empire holds out to its inhabitants. France, therefore, has but little cause for jealousy or solicitude upon the subject of the loss of her moral or physical strength by emigration; and she can, in the consciousness of a happy and satisfied population, exhibit before Europe and the world an example of liberality and justice on this subject worthy of her exalted position among the powers of the earth.

Nothing could occur that would so consolidate the relations now subsisting between France and the United States, and strengthen those sentiments of friendship which, since the date of our revolutionary struggles, have in so eminent a degree marked the people of that country for those of their ancient and faithful ally, as the full recognition by treaty of the views and principles of my government on this delicate and interesting question. Such a treaty would not only remove almost the only conceivable occasion of conflict and estrangement between these two great nations, but would form a precedent honorable to

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the justice and liberality of the imperial government, and beneficial to the United States in the final arrangement of all similar questions with the powers of Europe.

With renewed assurance, &c.,

CHARLES J. FAULKNER.

M. THOUVENEL.

Mr. Cass to Mr. Faulkner.

No. 19] DEPARTMENT OF STATE,
Washington, May 7, 1860.

SIR: Your despatch No. 17, with its enclosures, has been received.

In the case of Michael Zeiter, your note to Mr. Thouvenel of the 2d of April appears to present very correctly the views of this government upon the subject of exacting military service from natives of France naturalized as citizens of the United States, and I should be glad to learn that these views are acquiesced in by the government of France But the case of Mr. Zeiter has been previously presented by Mr. Calhoun, and the reply of Count Walewski, I am sorry to say, did not authorize any reasonable expectation of such a concurrence. Your proposal, therefore, to make a treaty on the subject was not likely to be adopted by the French government, even if you had been fully authorized for that purpose by the President. No instructions, however, of this effect have been given to any of our diplomatic agents in Europe; and, in the absence of instructions, such a proposal might sometimes lead to very embarrassing consequences. In the present case, what we claim on the subject of naturalization is claimed as a matter of right, and not requested as a concession. If France is willing to adopt our views, and to act upon them, no convention is necessary. She has only to make her practice conform to what will then be her principles, and we shall have no cause to complain. She is much more likely, it is believed, to make this conformity of practice than to change before the world her established theory. We should be glad, however, if she would do both.

I am, sir, respectfully, your obedient servant,

LEWIS CASS.

CHARLES J. FAULKNER, Esq., &c., &c., &c.

Mr. Faulkner to Mr. Cass.

No. 23.] LEGATION OF THE UNITED STATES,
Paris, May 23, 1860.

SIR: I had the honor to-day to receive your despatch No. 19, acknowledging the receipt of a copy of my letter to Mr. Thouvenel of the 2d of April last, and I am gratified to learn from it that I have in that communication correctly presented the views of the government upon the subject of exacting military service of natives of France naturalized as citizens of the United States. Indeed, the doctrines maintained by the United States on that question have been so frequently and so distinctly announced in despatches from the State Department, and especially since the duties of that department have been in your charge, that it would be an evidence of gross inattention if they should now be misapprehended or misapplied by any one of the diplomatic representatives in the foreign service of the country, and little is left but to repeat those doctrines substantially in the language of your instructions. The consistency which has marked your own views and those of the government of the United States on this question for many years past is worthy of notice. In examining, yesterday, the archives of this legation, I find that in the fall of 1838 a case, in all respects similar to

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that of Michael Zeiter, was at that time brought to your attention, and in your communications to Count Mole, the minister of foreign affairs, you briefly but firmly maintained precisely the same views which you have since more fully elaborated in your despatches to Mr. Wright.

I think the closing remarks in my letter to Mr. Thouvenel are too strongly characterized by you "as a proposal to the French government to make a treaty" on the subject. I was well aware that I had no special instructions from my government to negotiate a treaty for the recognition by France of our views of the rights of naturalized citizens. I was also fully apprised of the decided opinions entertained by the present minister of foreign affairs in opposition to our doctrine as fully exhibited in his letter to me of the 6th of March; still I did not, because of these facts, feel precluded from the expression of an opinion, *arguendo*, that the full recognition of our doctrines by treaty would be alike honorable to the imperial government and gratifying to the United States. I could not then, and I confess I cannot now, see how the expressing of such an opinion should involve me or my government in any possible embarrassment. All must concede that such a course upon the part of a leading European power like France would, to say the least, conduce immensely to the comfort and advantage of such of our naturalized fellow-citizens as are natives of France, and save them many sacrifices which they are now compelled to endure, while we are engaged in asserting their rights, and for which sacrifices no indemnity, I believe, has ever been claimed or recovered by our government; nor do I see how the insertion of an article in a treaty by which France should abandon all claim to military service from those of her natives who had become naturalized citizens of the United States would detract from the high ground upon which we place that doctrine as a matter of right. No right, surely, was ever more perfect than the right to absolute protection from impressment in our own ships upon the high seas of naturalized citizens. It was a right for the maintenance of which the United States incurred the expense and calamities of a war in 1812–'13, and would now cheerfully expend oceans of blood and treasure if it should be again assailed; and yet the clearness of this right was not deemed at all impaired by the repeated efforts made by our country to negotiate a treaty with Great Britain for the surrender of her unfounded and illegal pretensions on the subject. Wars are often waged to enforce rights, and treaties are frequently but the acknowledgment of a right vindicated by arms, or yielded from a sense of justice or policy.

I have, up to this time, received no reply from Mr. Thouvenel to my letter of the 2d of April, and no direct information from M. Zeiter, since his letter of the 16th of March, but I saw yesterday a letter from Zeiter's attorney, from which I infer that he will be discharged from all further claim for military service, even before the meeting of the *conseil de revision*, which is fixed for the 6th of June.

Very respectfully, your obedient servant,

CHARLES J. FAULKNER.

Hon. LEWIS CASS,
Secretary of State.

Mr. Faulkner to Mr. Cass.

No. 27.] LEGATION OF THE UNITED STATES,
Paris, June 16, 1860.

SIR: I take great pleasure in forwarding to you a copy of the judgment of the tribunal *de premiere instance* of the arrondissement of Wissembourg, Bas Rhin, in the case of Michael Zeiter, from which it will be seen that he has been discharged from all further claims to the performance of military service in the

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French army. By referring to the judgment of the tribunal you will see that his discharge is distinctly placed upon one of the grounds assumed by me in my communication to Mr. Thouvenel, of 2d of April last, to wit: That having become a naturalized citizen of the United States, *he has ceased to be a Frenchman;* and, therefore, owing no further allegiance to France, he could not be required to perform military service in her behalf. I regard this decision as settling this question for all future time in France, a fact calculated to save our French naturalized citizens from much annoyance, as not less than three other cases, requiring some interposition on my part, have been brought to my attention within the last few weeks; one the case of a young man, Jean Louis Maximilian Correau, arrested shortly after leaving an American ship at Toulon, and now in confinement in that city. His father, who is a resident of Paris, is at this time actively engaged in ascertaining the facts for me. The decision in the case of Zeiter has been made after the most ample time for deliberation and for consultation with the imperial government. After a clear and distinct annunciation of the doctrine maintained by the United States on this question, and of their determination to enforce those doctrines, and in opposition to the views at first assumed by Mr. Thouvenel in his letter to me of the 6th of March, I have satisfactory reasons for believing that the result of this adjudication has been influenced by suggestions from the imperial government. I value this result the more, as in its accomplishment I made no appeal to the courtesy and kindness of the French government; I did not ask Zeiter's discharge as any personal favor to me, or favor to my government, but purposely abstained from all verbal communications with the ministers of foreign affairs in reference to the case, determined to make the issue fairly and firmly, and to place the views upon which I claimed his exemption from military service upon the records of my own and the French government, there to speak for themselves now, and for all future time. This decision recognizes in their fullest extent the doctrines of the right of expatriation, and the legal effect which we claim for the act of naturalization in the United States.

I am, very respectfully, your obedient servant,

CHARLES J. FAULKNER.

Hon. LEWIS CASS,
Secretary of State.

Copy of judgment.

[Translation.]

The court of Wissembourg rendered this decision on the 2d June, 1860, in the case of Michael Zeiter against the prefect of the department of Bas Rhin.

Michael Zeiter, farmer, residing in the United States of America, now stopping at Uhrwiller, by his attorney, Mr. Volpert, is plaintiff, *versus* the prefect of the department of the Lower Rhine, residing in Strasburg, represented by the imperial prosecutor, defendant.

Mr. Volpert argued for the plaintiff that the court ought to decide and acknowledge that he satisfied the judgment of the 25th of April, 1860, by producing the certificate of the United States consul in Paris, dated 28th March, 1860, and filed at Wissembourg; that he is a regularly naturalized citizen of the United States, and has lost the title of a citizen of France; that he had been wrongfully enrolled by the council of Uhrwiller; and that the prefect be condemned in costs.

The imperial prosecuting attorney argued for defendant that the plaintiff be nonsuited and condemned in additional costs; and to declare that, though he be an American citizen now, he was a Frenchman at the time of the enrolment in May, 1832; and that he also be condemned to costs in this case.

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Evidence.

The plaintiff, a native of Uhrwiller, left France thirteen years ago, and settled in the United States when he was sixteen years of age. In 1852 he was naturalized a citizen of the United States of America. In May, 1859, he returned to France to visit his parents. Against his protest he was enrolled for the year 1859, at Uhrwiller, and was subject to the draft. To avoid this he had to prove that he was an American citizen; and to effect it he brought the above suit against the department prefect at Strasburg, on the 21st March, 1860.

The case being called the 25th April, 1860, it was continued, to allow Zeiter time to procure a certificate from the United States consul in Paris, proving him to be really a citizen of the United States.

The case having come up a second time, the plaintiff exhibited the relevant affidavit of the United States consul in Paris, and the issue was, shall the plaintiff's petition be granted? Shall he pay costs?

The arguments of both parties having been heard, and considering that the plaintiff has proved himself a citizen of the United States, by the certificate of the United States consul general at Paris, given to him on the 28th of May last, the court declared the judgment of the 25th April last, against plaintiff, to be satisfied; and that, in consequence, Michael Zeiter, the plaintiff, has forfeited the title of a French citizen by his naturalization in a foreign country, and is condemned to pay the costs of this suit, amounting to 100 francs.

Judgment pronounced by Bardy, president of the tribunal, and signed by him and the clerk.

Mr. Faulkner to Mr. Thouvenel.

LEGATION OF THE UNITED STATES,
Paris, May 31, 1860.

Mr. LE MINISTRE: In addition to the views presented in my letter to you of the 2d of April last, I beg leave to call the attention of your excellency to a case similar in all its facts to the case of Michael Zeiter, which was brought to the notice of one of your predecessors in 1838. In that case the French government—upon satisfactory evidence that Mr. Bellequet, although a native of France, was a naturalized citizen of the United States—gave the necessary orders for his discharge from the military service sought to be forced upon him. I invite your perusal of the letters of General Barnard, then Secretary of War, and of Count Mole, then minister of foreign affairs, which are doubtless preserved among the records of your department for the months of August and September, 1838.

I will further add that the evidence submitted to me is conclusive, on the question of fact, that Zeiter is a naturalized citizen of the United States.

I therefore ask your excellency, in accordance with the precedent above referred to, to give the necessary orders for the release of Michael Zeiter from the difficulty in which he is now placed.

I am, &c.,

CHARLES J. FAULKNER.

Mr. THOUVENEL.

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Mr. Faulkner to Mr. Cass.

[Extract.]

No. 33.] LEGATION OF THE UNITED STATES,
Paris, July 16, 1860.

SIR: I have the honor herewith of forwarding to you * * * copies of some letters which have passed between Mr. Thouvenel and myself.

* * * * * * * * * *

I am, very truly, your obedient servant,

CHAS. J. FAULKNER.

Hon. LEWIS CASS,
Secretary of State.

Mr. Faulkner to Mr. Thouvenel.

LEGATION OF THE UNITED STATES,
Paris, June 23, 1860.

MONSIEUR LE MINISTRE: A case to which your attention has already been called—that of Michael Zeiter, a native of France, but a naturalized citizen of the United States—has at length been heard before one of the judicial tribunals of France. After full consideration of the very interesting question involved, the tribunal of primiere instance, of Wissembourg, Bas Rhin, on the 2d of June, decided that, by his emigration to the United States and his becoming a naturalized citizen of that republic, he had ceased to be a Frenchman, and was not liable to compulsory service in the French army. He was, in accordance with this judgment of the court, promptly discharged from all further claim of military service, and set at liberty, but amerced in costs to the amount of 100 francs.

While I am free to express my gratification at so much of the judgment of the court as discharged this American citizen from illegal confinement, I must be allowed to express my strong disapprobation of that portion of the decision which amerced him in the costs of the action. When first arrested he exhibited his passport as an American citizen, and his certificate of naturalization; he protested against the legality of his arrest, and claimed his rights as a citizen of the United States. All these positions he has since successfully maintained before a judicial tribunal of your country, and yet he has been adjudged to pay the costs of a proceeding which has resulted in the vindication of every position which he assumed in that controversy with the government.

It would be far more in accordance with the spirit of the law that some equitable compensation should be made by the French government to Michael Zeiter, for the restraint imposed for more than three months upon his personal liberty of action, and for the loss of time, interruption of his ordinary occupation, expenses, and annoyances to which he has been exposed by this illegal demand. But as I have no instruction from my government to exhibit any claim for compensation, I pass from that subject for the present.

It was not, however, to revive any points connected with the case of Michael Zeiter that I again address your excellency, but to bring to your notice the fact that two other cases, similar in their circumstances, have recently occurred, one at Marseilles and the other at Bayonne, and to submit to your excellency whether some mode may not be devised to give effect to the principles adjudicated in the case of Zeiter, without subjecting American citizens to the hardships and inconveniences to which they are now exposed by protracted trials. The limits within which the United States feel bound to afford protection to their naturalized citizens are clearly and distinctly defined in my letter of the

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2d of April last. If the persons do not come within the principles there announced, they constitute no cases for our interposition. These limits will be found to be reasonable and just, and in accordance with the well recognized principles of public law. They have been sustained after the fullest deliberation in your own courts in the case of Zeiter.

Assuming, then, that the principles decided by the discharge of Zeiter are sound and in accordance with French law, and that they have the approbation of the imperial government—as no appeal has been taken from that decision—may not some mode be devised by which these principles may be promptly applied, for the relief of such citizens of the United States as come within the scope of that decision, and within the doctrines maintained by the government of the United States? The facts are generally of easy ascertainment; and if instructions were given to the military commandant, to the prefect of police, or to the procureur imperial to discharge promptly all whose cases were clearly within the principles of that decision, much inconvenience would be saved to my countrymen, and much unkind feeling avoided.

I respectfully submit this matter to the consideration of your excellency, trusting that your more familiar acquaintance with the laws and institutions of France will enable you to suggest some mode in which these adjudicated principles may be more promptly administered for the relief of my countrymen.

I have the honor, &c., &c., &c.,

CHARLES J. FAULKNER.

Mr. THOUVENEL.

Mr. Faulkner to Mr. Thouvenel.

LEGATION OF THE UNITED STATES,
Paris, July 5, 1860.

MONSIEUR LE MINISTRE: Permit me to call the attention of your excellency to the fact that P. Puyoon, an American citizen, is now at Toulouse, in the 77th regiment de ligne, battalion de voltigeurs, of the French army, having been forced into that service in opposition to his strong protests, and after the exhibition of documentary evidence that he is a citizen of the United States. His certificate of naturalization has been forwarded to me, and I have no doubt of the genuineness of the paper. As this is a case of urgency, involving the personal rights and liberty of an American citizen, I trust your excellency will, at as early a moment as possible, give to the subject your consideration, and take such orders in the case as will result in his immediate discharge from his present service.

I have the honor, &c.,

CHARLES J. FAULKNER.

Mr. THOUVENEL.

Mr. Thouvenel to Mr. Faulkner.

[Translation.]

JULY 5, 1860.

SIR: You have done me the honor of writing to me several times in relation to Mr. Michael Zeiter, who had protested against his inscription on the military contingent list of the commune Uhrwiller, (Lower Rhine.)

I delayed answering these different communications until the tribunals should have decided on the question of nationality which was submitted to them, and accordingly I had asked the minister of the interior to inform me of the decision which was to intervene. You have anticipated my wishes in acquainting

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me, by your letter of the 23d June, that the tribunal of first instance of Wissembourg had recently decided that Mr. Zeiter, having obtained American naturalization, had lost his quality as a Frenchman, and that in consequence of this decision he has immediately been liberated from military service. However, Mr. Zeiter has been condemned to payment of the costs, amounting to the sum of one hundred francs.

Although expressing the satisfaction given to you by that part of the judgment which assures the liberation of Mr. Zeiter, you are astonished at the condemnation and costs pronounced against him by the tribunal, and you are so good as to point out to me, in relation to the present case, two similar cases which were to occur at Marseilles and at Bayonne, to inquire if there would be no possibility of carrying into effect through an administrative channel the principles judicially recognized in regard to Mr. Zeiter.

Some explanations will suffice to convince you that this step is not practicable. In a matter so grave as that of military enrolment, in which a great public interest may clash with the rights of private persons, the law has restricted the official intervention to the narrowest limits, and has sought to surround with the most complete guarantee determinations to intervene. With this view the legislature has completely divested the administration of the right of appreciating the question of nationality, in order to reserve its exclusive cognizance to the courts. Therefore the law of the 21st of March, 1832, which governs the matter, after regulating in the greatest detail the manner in which the contingent is to be formed, prescribes formally, in article 6, the inscription on the contingent list of young men settled abroad *expatriated.* Then, foreseeing the case in which young men who are inscribed might have to form reclamations founded on questions of nationality, article 26 institutes a process which divests the council of revision of judgment on the question of nationality, and confers it exclusively on the civil tribunals.

In presence of so formal a delegation of jurisdiction, the administration must necessarily keep aloof, and this abstinence, sir, you certainly have already comprehended, far from awakening the susceptibilities of foreign countries, is on the contrary the best guarantee of impartiality which could be offered to the parties concerned. The intervening decision in favor of Mr. Zeiter is a remarkable proof of this.

As to the peculiar matter of condemnation to costs, the institution of the process, as it is constituted, also perfectly explains this result. When on the occasion of the enrolment, a claimant has recourse to the courts to have his status acknowledged, he acts in his own exclusive interest. The administration not having in any case the right of deciding the question of nationality, must necessarily follow the claimant before the civil jurisdiction, even though it should be of the same opinion as himself, in order to give to the dispute that contradictory form which is the safeguard of all interests. It would, therefore, not be just that the administration should be condemned to the costs when it is not permitted to avoid a dispute, which in substance and in form is ordained entirely in the interest of the claimant, and in which most generally the administration declares that it submits itself to the decision of justice.

I will add that in this particular case the claimant should consider this mere condemnation to costs as quite a favorable result, when strictly, perhaps, the severe provisions of the decree of the 26th of August, 1811, might be applied to him.

Accept, &c.,

THOUVENEL.

CHARLES J. FAULKNER, Esq., &c., &c., &c.

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Count Thouvenel to Mr. Faulkner.

[Translation.]

PARIS, *July* 11, 1860.

SIR: You have done me the honor to point out to me, in a communication under date of the 5th of this month, the conversation of a soldier of the 77th regiment of infantry of line, named P. Puyoon, or G. Guyon, who had uselessly claimed the benefit of his American nationality in order to be exempted from military service. On referring to the minute explanations which I have had occasion to address to you on the same day on a similar subject, I have hardly had to take into consideration the demand in question However, I shall h isten to request of the minister of war all desirable inquiries, and I shall be obliged to you with this design if you will be pleased, while stating the exact orthography of this soldier's name, to send me a copy of his reclamation.

Accept the assurances, &c.,

THOUVENEL.

C. J. FAULKNER, Esq., &c., &c., &c.

Mr. Faulkner to Mr. Thouvenel.

LEGATION OF THE UNITED STATES,
Paris, July 13, 1860.

MONSIEUR LA MINISTRE: In reply to your note of the 11th, I beg to express my sincere regret that the name of the naturalized American citizen referred to in my letter of the 5th was not more distinctly written. The name is P. Puyoon.

I have the honor to be, &c,

CHARLES J. FAULKNER.

Mr. THOUVENEL.

Mr. Faulkner to Mr. Cass.

No. 48.] LEGATION OF THE UNITED STATES,
Paris, August 25, 1860.

SIR: I have the pleasure to announce to you another instance of the triumph of the principles of our government, in the person of P. Puyoon, a native of France, and a naturalized citizen of the United States. Copies of my letters heretofore transmitted touching this case, and those accompanying this despatch, will place you in possession of all the facts necessary to its full comprehension. I have not yet received the copy of the judgment which Mr. Puyoon promised to forward to me.

After two such solemn adjudications of the right of expatriation, and the legal effect of the naturalization laws of the United States in France, I do not think our French naturalized fellow-citizens will hereafter experience much annoyance on this subject.

I am, very respectfully, your obedient servant,

CHARLES J. FAULKNER.

Hon. LEWIS CASS, *Secretary of State.*

Mr. Faulkner to Mr. Thouvenel.

LEGATION OF THE UNITED STATES,
Paris, August 1, 1860.

MONSIEUR LA MINISTRE: I have already invited your attention to the case of P. Puyoon, a native of France, but now a naturalized citizen of the United

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States, who is at this time at Toulouse, rendering compulsory service in the French army.

I recommended to Mr. Puyoon, in accordance with the views presented in your letter to me of the 5th of July last, to make his appeal to the civil tribunals of France. In pursuance of that advice, and following the precedent in the case of Mr. Zeiter, he instituted proceedings before the court of première instance against the prefect of the department at Toulouse.

I learn by a letter this day received from P. Puyoon, that an exception has been taken by the procureur imperial to the jurisdiction of that tribunal, upon the ground that the proceeding ought to have been instituted in the department of which he was a native, and where he was required to enter the army, which I believe was the department in which Bayonne is located. It seems that he was immediately marched off from Bayonne to Toulouse, after he was condemned to compulsory service in the French army.

I cannot for a moment suppose that the imperial government will permit a citizen of the United States to be deprived of an opportunity of establishing his American nationality before the civil tribunals of France, by a mere technicality such as this, a plea to the jurisdiction of the court. His removal from his native department was no voluntary act of his; it was the act of the government; it was while thus involuntarily detained at Toulouse that he was advised by me of his legal rights, and of the expediency of a prompt appeal to the civil tribunals. It was not in his power, situated as he then was, to resort to any other jurisdiction than that into which he had been forced.

May I not, therefore, with confidence appeal to your excellency, either to discountenance a resort to this plea to the jurisdiction of the court by the procureur imperial, or, if that course is not consonant to your judicial usages, that you will procure from the minister of war an order permitting Mr. Puyoon to return to his native department and there institute the necessary proceedings to establish his American nationality.

I cannot close this letter without announcing the very great satisfaction which the judgment of the court in the recent case of Mr. Zeiter has diffused throughout the United States. The result of that decision has been extensively noticed in the public journals of that country, and has universally drawn forth the strongest expressions of kindness and good will to the people and government of France.

Accept the assurances, &c., &c.,

CHARLES J. FAULKNER.

Mr. Faulkner to Mr. Cass.

No. 54.] LEGATION OF THE UNITED STATES,
Paris, September 27, 1860.

SIR: I herewith send you a copy of the judgment and other papers which close the case of P. Puyoon. The cases of Michael Zeiter and of P. Puyoon were in all their essential facts the same, yet an important diversity will be observed in the judgment of the tribunal in the latter case, and in the consequent responsibility which its action devolved upon the imperial government.

In the first case the tribunal *de première instance* of Wissembourg, in the department of Bas Rhin, decided not only that Zeiter, by virtue of his naturalization in the United States, had acquired our nationality and had ceased to be a Frenchman, but by its judgment it discharged him from service in the French army. In achieving his liberation the administrative authority had no open or public participation, and its acquiescence in the result was simply to be inferred from the fact that it failed to take an appeal from that judgment to a higher tribunal.

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In the case of P. Puyoon, the tribune of Toulouse, Haute Garonne, also adjudged the plaintiff by virtue of his naturalization to be a citizen of the United States, but it declined to erase his name from the rolls of the French army, throwing the responsibility of that action upon the administrative authority. Here the imperial government was brought to act directly upon the interesting question involved. It was required in the most formal and official manner, either to repudiate or to recognize the right of expatriation and the legal effect of our naturalization laws, and to sanction these principles by the discharge of the recruit from service. It will be seen that this responsibility was fully met by the imperial government—that the right of expatriation was officially recognized and Puyoon discharged from the French service. It is impossible that principle could be more fully and triumphantly vindicated than the doctrines of our government have been in these two cases, by the judicial and administrative authority of France.

I am, very respectfully, your obedient servant,

CHARLES J. FAULKNER.

Hon. LEWIS CASS,
Secretary of State, Washington.

Copy of judgment rendered by the tribunal of first instance of the department of the Haute Garonne, sitting at Toulouse, in the case of P. Puyoon, a naturalized citizen of the United States, drafted into the French army.

[Translation.]

Napoleon, by the grace of God and the national will Emperor of the French, to all to whom these may come, greeting:

The court of first instance, in session at Toulouse, rendered on the 16th of August, 1860, at an open sitting of the first chamber of the said tribunal, its judgment of the tenor following:

Present and affirmant, Messrs. Fort, president, chevalier of the legion of honor; Mersie, judge; Bellecour, judge; Auzies, substitute of the procureur imperial.

Cause of Mr. Piere Puyoon, hair-dresser, domiciled at San Francisco, California, American subject, incorporated as a soldier in the seventy-seventh regiment of infantry of the line, in garrison at Toulouse, appearing through the agency of Mr. Delourme, retained as his attorney, on the one part.

Conria, monsieur the prefect of the Haute Garonne, representing the government, on the other part.

The tribunal admitted in the proceeding that on the date of the 11th of June, 1860, the said Mr. Puyoon caused to be presented to the president of the civil court of Toulouse a petition, in which he stated to such magistrate, that although born in France, where his family still continue to be, he had left his native country in his early life to reside in California, where he had become a naturalized citizen of the United States of America, in the year one thousand eight hundred and fifty-two, but nevertheless his name had been kept upon the conscription list for the year 1853, the lot having been drawn for him by the mayor of the commune where he was born, in consequence, and at the close of the month of June last, having made a voyage to France to visit his relations and settle some business, he was immediately after his arrival called under the banners, and in spite of his protest incorporated in the seventy-seventh of the line, in garrison at Toulouse, where he was compelled to serve in the condition of a soldier, although his quality of American citizen relieved him from service in the French army because he was no longer a French citizen; that it was of the greatest importance to him to put an end to the position in which he had been

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placed, which not only offered to him the greatest inconveniences, but moreover occasioned much injury to him.

Under these circumstances, he moved that it might please the president, in view of article 26 of the law of the 21st of March, 1832, and of article 17 of the Code Napoleon, to authorize him to cite, upon short notice, to the first hearing before the court which he might please to direct, the prefect of the department of the Haute Garonne, representing the government, for the purpose of determining that, in consequence of his naturalization as an American citizen, Mr. Puyoon had lost the quality of French citizen, by consequence was not held to military service in France, by consequence had been wrongfully summoned under the standards and detained as a soldier in the seventy-seventh regiment of the line, ordering that he should be erased from the lists of the French army, understood to be condemned in his quality to costs, with provisional execution of the judgment of intervention and reserve of other motions to be made, and, in view of the urgency of the case, permitting immediate execution of the decree.

On the same day, the 11th of July, this petition was followed by an order by the president, authorizing Mr. Puyoon to cause to be cited, at short notice, for the hearing sixteenth (16th) of July, then current, the prefect of the Haute Garonne, for the purpose above required.

In consequence of said order, on the 12th July, 1860, De Sarrene, huissieur of Toulouse, by summons, registered and approved by the prefect of the Haute Garonne, in which Mr. Delourme was appointed his attorney, Mr. Puyoon notified the prefect of the order and petition of the 11th of July and the facts as stated in said petition, upon which he declared he most strongly insists, cited the said prefect before the civil court of Toulouse, for hearing on the sixteenth (16th) of July, for the purpose of determining if, in consequence of his naturalization as an American citizen, Mr. Puyoon had lost the quality of French citizen, by consequence was not held to military service in France, by consequence had been wrongfully summoned under the standard and detained as a soldier of the seventy-seventh regiment of the line, ordering that he should be erased from the lists of the French army, understood to be condemned in his quality in costs, with provisional execution of the judgment of intervention, and reserve of other motions to be made, and subject to all other reservations, with costs.

The matter in this state, after service of the papers, and several successive postponements, was brought to a hearing this day, on which, upon hearing M. Timbal, advocate, assisted by Mr. Delourme, attorney of Mr. Puyoon, who had moved that it should please the tribunal to say and declare that Mr. Puyoon had been naturalized as a citizen of the United States of America, on the first of March, 1853; that he had thus lost the quality of Frenchman, by the terms of article 17 of the Code Napoleon; that by consequence he must be considered as a foreigner, and ruled as such; and to reserve to him, in consequence all his rights that he may obtain from the French government, his being stricken off from the discipline of the army, in the terms of article 2 of the law of the 21st of March, 1832, according to which foreigners cannot serve in the French army; that the prefect in his quality be condemned in costs.

Upon hearing, Mr. Auizes, substituted for the procureur imperiale, declared that he submitted the foundation of the proceeding to the wisdom of the court, and moved that Mr. Puyoon be condemned in costs.

The questions to be determined are these:

What should be decreed as to the quality of foreigner claimed by Mr. Puyoon? what as to costs?

Considering that article 26 of the law of the 21st of March, 1832, on recruiting the army, authorizes the ordinary tribunals to take cognizance of questions touching the state or the civil rights of young persons embraced in the cantonal contingent when the reclamation of the latter calls for the examination of questions of this nature;

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Considering that Puyoon, soldier of the class of 1852, at present incorporated in the seventy-seventh regiment of the line, maintains that he cannot be retained on the lists of the army, because of having lost the quality of Frenchman;

Considering that, by the terms of article seventeen of the Code Napoleon, the quality of Frenchman is lost by naturalization acquired in a foreign country;

Considering that the documents placed under the inspection of the court passed by the minister plenipotentiary of the United States of America at Paris prove that, after many years' residence in the State of California, Puyoon was naturalized as an American citizen, at the date of the 1st of March, 1853;

Considering that Puyoon must be, in consequence, declared to be a foreigner;

But considering that it does not pertain to the court to order also what Puyoon asks from it, in the summons initiatory of the proceeding; that, as a consequence of his quality of foreigner, which is recognized, he should be erased from the lists of the French army; that such erasure is, in effect, exclusively within the competence of the administrative authority;

Considering that the costs are at the charge of Puyoon, in whose interests they have accrued, and that it comes also within one of the applications;

For these causes—

The court deciding in first instance in summary proceeding declares that Puyoon was naturalized as an American citizen the 1st of March, 1853, and that he has in consequence lost his quality of Frenchman; remits Puyoon to his remedy, before whom it belongs of right, as to his claim to obtain his erasure from the lists of the French army; condemns Puyoon in costs.

FORT, *President.*
GINOT, *Clerk, Register.*

Signed on the minute, registered at Toulouse, the 27th of August, 1860. Received five francs fifty centimes, decime included.

DUPON.

We order and decree all officers of the court, upon this requisition, to carry this judgment into execution; to our attorney general and our attorneys at court of first instance, and to maintain the same; to all commanders and officers of the public forces to lend the strong hand thereto, when they shall be lawfully required.

Despatched and delivered at the record office of the court of first instance, in session at Toulouse, on the requisition of Mr. Delourme, attorney of Mr. Pierre Puyoon, the 27th of August, 1860.

Compared:

DUPON.

Registered at Toulouse the 27th August, 1860; fifteen francs four centimes. Received nine francs sixty-eight centimes, decime included. Register, two francs seventy centimes.

DUPON.

A compared copy:

S. DELOURME.

Examined for the legalization of the signature of Mr. Delourme, attorney of the court of first instance of Toulouse.

Upon hearing before said court, the 29th August, 1860.

For the President, (hindered,)

[SEAL.] VICTOR FOY, *Judge.*

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Mr. Faulkner to Mr. Thouvenel.

LEGATION OF THE UNITED STATES,
Paris, August 31, 1860.

MONSIEUR LE MINISTRE: P. Puyoon, the individual to whose condition I have before invited the attention of your excellency, has this morning forwarded to me an authenticated copy of the judgment rendered in his case on the 16th of the present month, by the tribunal de premiere instance of the department of Haute Garonne, sitting at Toulouse.

By this judgment Mr. Puyoon is fully recognized as a citizen of the United States, and his right to a release from the military service of France admitted; but the tribunal declines to discharge him from such service, being of the opinion that the execution of that necessary conclusion, from the facts decided, appropriately falls within the jurisdiction of the administrative authority.

I must, therefore, ask your excellency to procure from the minister of war an order for the immediate discharge of P. Puyoon from the French service.

Accept, &c., &c.

CHARLES J. FAULKNER.

Mr. THOUVENEL.

Mr. Faulkner to Mr. Thouvenel.

LEGATION OF THE UNITED STATES,
Paris, September 8, 1860.

MONSIEUR LE MINISTRE: It has now been nearly one month since a civil tribunal of France, after a full hearing of the case, has adjudged P. Puyoon to be a citizen of the United States, and, as such, entitled to his discharge from his present compulsory service in the French army. And yet, from a letter which I have this day received from Mr. Puyoon, I learn that he is still in the barracks at Toulouse, subject to all the usual requirements of military service, and deprived of his liberty of action, to his great personal inconvenience, and to the damage of his private affairs in the United States.

I beg leave to invite the prompt attention of your excellency to this case. My government is justly sensitive to all infractions of the personal rights and liberties of its citizens; and it would not hold me guiltless if I remained one moment silent and inactive, where any restraint upon the liberty of one of my fellow-countrymen is prolonged beyond the period necessary to a fair ascertainment of the question of his nationality.

Accept the assurances, &c., &c.

CHARLES J. FAULKNER.

Mr. THOUVENEL.

Mr. Thouvenel to Mr. Faulkner.

[Translation.]

PARIS, *September* 19, 1860.

SIR: I have received the letter which you have done me the honor to write to me on the subject of the reclamation of Mr. Puyoon, a naturalized American, who demands his liberation from military service.

By your last communication, dated the 8th of this month, you recall to me that the judgment of the court of first instance at Toulouse has recognized in Mr. Puyoon the quality of citizen of the United States, and his right as such to be freed from military service, and you are surprised that the latter still finds

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himself at the barracks of Toulouse, and has not yet been restored to freedom of action.

Permit me to cause you to observe that the court of Toulouse, which confined itself to the recognition of the quality of foreigner in Mr. Puyoon, had not to determine, and moreover, in effect, declined its competency, in whatever touched upon the erasure of this soldier from the army lists. This judgment has declared, in conformity with law, that the question of erasure, which may be the consequence of the quality recently acquired by Mr. Puyoon through his American naturalization of March 1, 1853, pertained exclusively to the competency of the administrative authority.

Mr. Puyoon, then, must take recourse to the latter authority, to which you without doubt will think it is just to leave time to combine the elements needful to come to a decision understandingly; and the war department has not been able to become regularly advised of the claim of Mr. Puyoon, otherwise than by the first communication through his letter, which you did me the honor to address to me on the 31st of last month, that is to say, fifteen days after the judgment.

However it may be, I have hastened to write again to the minister of war on the subject of this affair, and will not omit to inform you of the decision of Marshal Raudon as soon as received by me.

I have the honor to address to you, here annexed, a copy from the court of Toulouse.

Accept. &c.

THOUVENEL.

Mr. FAULKNER,
Minister of the United States, &c.

Mr. Themdette to Mr. Faulkner.

[Translation.]

PARIS, *September* 22, 1860.

MONSIEUR: I had the honor to transmit to you on the 19th of this month a copy of the judgment which declares to be a foreigner the Mr. Puyoon who is actually incorporated in the seventy-seventh regiment of infantry.

The minister of war has just informed me, and I hasten to announce to you, that the prefect of the Basses Pyrenées and the general commanding the twelfth military division have been requested each in what pertains to him to strike out Mr. Puyoon from the lists of his class and from the matriculation of his regiment.

Accept the assurance, &c., &c.

For the minister, and, by authority, the counsellor of state, director of political affairs—

V. THEMDETTE.

Mr. FAULKNER, *&c., &c.*

Mr. Cass to Mr. Faulkner.

No. 35.] DEPARTMENT OF STATE,
Washington, October 3, 1860.

SIR: An accidental circumstance has prevented an earlier acknowldgement of the receipt of your despatch No. 48, and I have now to inform you that it was duly received, and to express to you the gratification of the President at the decree of the judicial tribunal of Toulouse, by which Mr. Puyoon, a Frenchman by birth but an American citizen by naturalization, was discharged from the military service, into which he had been required to enter. I concur fully with

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you in opinion that this case and that of Mr. Zeiter, another American naturalized citizen, released in June last under similar circumstances by a judicial tribunal at Wissembourg, recognize the principle that Frenchmen leaving the country and acquiring the character of American citizens, agreeably to our naturalization laws, are not subject to compulsory military service on their return to France as temporary residents.

These decisions are the more satisfactory as they show that the law of France touching this important question has not recently undergone any change, but that the principle of exemption in virtue of naturalization is maintained at this time precisely as it existed in 1852, when an American naturalized citizen, Mr. Allebert, visiting France, was arrested as an *insoumis*, and brought before a tribunal at Marseilles for trial. He was condemned to a month's imprisonment, but on appeal he was tried by another tribunal at Toulon, by which that judgment was annulled and Mr. Allebert was discharged. In the progress of this case the minister of war, on the 15th of September, 1852, thus authoritatively laid down the law of France respecting the immunity of our naturalized citizens from compulsory military service on their return to the place of their birth:

"This man," (Allebert,) says the minister, in an order to the general commanding the ninth military division, "by the fact of his naturalization, has lost the quality of a Frenchman, and is consequently incapable of serving among the French troops in the terms of article 2 in the law of March 21, 1832."

Three principles are undeniably established by this exposition of the French law:

1. That Frenchmen had the right to expatriation, and the right to become citizens of another country.

2. That, by such expatriation and naturalization, they cease to be French citizens.

3. That no person can be a French soldier who is not a French citizen, and naturalization abroad being thus incompatible with service in the French armies, an American naturalized citizen is not subject to the operation of the conscription laws.

But beside this question of compulsory military service, there is another closely connected with it, and which was involved in the case of Allebert, and that is, the liability of returned American naturalized citizens to prosecution and to fine and imprisonment in consequence of their not having been present to draw for the conscription, or to serve as conscripts, though absent abroad when such duties were required to be performed.

The late Mr. Mason, in conformity with instructions from this department, submitted to Count Walewski certain inquiries touching the conscription laws of France. In consequence of misapprehending the views presented by our minister, Count Walewski, in his answer addressed to Mr. Calhoun, and dated November 25, 1859, was led into a grave error by assuming that agreeably to the laws of the United States an American citizen, naturalized abroad and returning to this country, is punishable for the non-performance of military service not required of him at the time of his expatriation. The military service referred to must necessarily be in the militia, when that arm of our national defence is called upon in one of the emergencies provided for in the Constitution. As we have no other compulsory military duty, we maintain no such contingent claims depending for their obligation upon future events. If, when an American citizen leaves the United States, he has committed no offence against our laws, he is free from all responsibility, and on his return, whether naturalized abroad or not, he cannot be held accountable for the non-performance of duties which, had he remained at home, might have been required of him.

This doctrine is of universal application, extending to service upon juries, and to other personal obligations imposed by law but depending for their performance upon future contingencies. You have presented the general subject

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with much force in your despatch to the minister of foreign affairs, dated April 2, 1860, in which you not only corrected the mistake of Count Walewski, but urged various considerations in support of our views, which are equally sound and appropriate. It was the more important to point out the error of Count Walewski, because he had appealed to his exposition of our law in proof that this principle of perpetual obligation, utterly inconsistent with the right of expatriation and naturalization, was engrafted into our institutions; and if so, we should certainly be precluded from demanding of France a political immunity which is refused by us under similar circumstances.

This misapprehension, however, together with its legitimate consequences, had not escaped my observation. Immediately after the receipt of Count Walewski's communication, forwarded by our chargé, Mr. Calhoun, I addressed to the latter a despatch, dated December 31, 1859, in which I defined briefly our true position, showing that it gave no support to this claim to hold an expatriated Frenchman responsible under the circumstances stated. Responsible, not for duties actually existing which he had been called upon to perform while in France, and from which he had absconded, but for not returning to that country to meet subsequent requisitions, palpably inconsistent with his new political condition. This had already been so satisfactorily done by Mr. Mason, that it is difficult to comprehend how the views he presented could be misapprehended. And I also requested Mr. Calhoun to embrace the first favorable opportunity which might present itself to correct the error into which Count Walewski had been led. Whether or not this was done I have not been able to ascertain, as the records of the department furnish no information on the subject.

I observe that in your letter to Mr. Thouvenel of April 2, 1860, in which this subject is considered, there is no reference to the disavowal by this department of the erroneous construction which had been put upon the language of Mr. Mason, and the restoration of his true meaning. It is possible that this authoritative declaration of the government, had not been brought to the knowledge of Mr. Thouvenel, or even recalled to his consideration; if it had been previously communicated to his department it might have given weight to your representations, and perhaps have facilitated the accomplishment of the object.

The French government is fully aware of the principles we maintain upon this important subject of naturalization, and the immunity which we contend it carries with it, and also of our determination to adhere to these positions. We have announced to the several European states, where the principle of compulsory military service prevails, that all our citizens are equal, and entitled to equal protection from this government, and that we deny the liability of any naturalized American citizen to be compelled to serve in foreign armies, unless he had been actually called into service and deserted therefrom before his emigration. The claim of a right, however, to punish by a fine and imprisonment, not by military service which is disavowed, a returned Frenchman who has become a naturalized foreigner, having legally changed his allegiance, though not formally disavowed, appears yet to be practically abandoned. For, as you correctly remark, no case of that description, so far as is known, has for some years been presented to conviction in France.

As to the despatch of Count Walewski, you are right in maintaining that it does not deny, but in fact admits, that a foreigner by naturalization, but born a Frenchman, cannot be compelled to serve in the armies of France. Nor does he deny the right of expatriation without obtaining the previous consent of the government, though he refers to certain inconvenient consequences, which may be avoided by previously receiving authority to emigrate. I imagine, however, that this distinction is rather theoretical than practical, as I believe that permission to emigrate is rarely applied for. But however that may be, as the remarks

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of Count Walewski upon this point do not touch the liability to be called upon to render compulsory military service, it is not necessary to consider them at this time. There are other positions in the same despatch which can scarcely abide the test of examination, but which may be equally left without investigation, as they have no practical bearing upon the subject.

I am, sir, respectfully, your obedient servant,

LEWIS CASS.

CHARLES J. FAULKNER, Esq., *&c., &c., &c.*

Mr. Dayton to Mr. Seward.

No. 153.] LEGATION OF THE UNITED STATES,
Paris, May 30, 1862.

SIR: Some time since I received a letter from a Mr. Henry Nippert, a naturalized citizen of the United States, informing me that his passport and naturalization papers had been taken from him, and that he had been drawn by the mayor of Wissembourg (Bas Rhin) as a recruit in the class of 1861, for the French army. He asked my assistance to enable him to avoid this illegal proceeding. I therefore wrote a note to Mr. Thouvenel, a copy of which I herewith enclose. I have just received an answer, of which I send you a translation.

By this it will appear that he, Mr. Nippert, has been discharged by order of the secretary of war.

I am, sir, with much respect, your obedient servant,

WILLIAM L. DAYTON.

His Excellency WILLIAM H. SEWARD,
Secretary of State, &c., &c., Washington.

Mr. Dayton to Mr. Thouvenel.

LEGATION OF THE UNITED STATES,
Paris, March 24, 1862.

MONSIEUR LE MINISTRE: Herewith I have the honor to enclose to your excellency the copy of a letter received from Mr. Henry Nippert, who represents himself as a naturalized citizen of the United States. He complains that his passport and naturalization papers have been taken from him, and he has been drawn by the mayor of Wissembourg, (Bas Rhin) as a recruit in the class of 1861, for the French army. The facts stated by him are vouched for by the Reverend Lewis Nippert, of Horochgasse, 985 Bas Basle, Switzerland.

The principle involved in these cases has been so often discussed that I suppose it is unnecessary to refer to it again. The cases of Zeiter and Puyoon, decided in 1860, cover, I presume, the case of this applicant.

I beg to call the attention of your excellency to his case.

Renewing the assurance of my high consideration, I have the honor to be your excellency's, &c., &c.,

W. L. DAYTON.

His Excellency MONSIEUR THOUVENEL,
Minister for Foreign Affairs.

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Mr. Thouvenel to Mr. Dayton.

[Translation.]

PARIS, *May* 26, 1862.

SIR: As a sequel to the letter which I had the honor to write you on the first of last April, I hasten to inform you that Mr. Nippert, (Henry,) has been recognized an American subject by judgment of the civil tribunal of Wissembourg, dated the 25th of the same month. M. the minister of war has, in consequence, given orders that this young man be struck off from the list of persons to be drawn of the class of 1861, in the department of Bas Rhin.

Accept the assurances of the high consideration with which I have the honor to be, sir, your very humble and obedient servant,

THOUVENEL.

Mr. WM. L. DAYTON, *&c., &c., &c.*

Mr. Bigelow to Mr. Seward.

No. 302.] LEGATION OF THE UNITED STATES.

Paris, April 13, 1866.

SIR: In the month of August, 1865, application was made to this legation for its interference in behalf of George Schneider and J. Baptiste Cochener, naturalized citizens of the United States, who were thrown into prison to await the result of an inquest in regard to their liability to military service in France. I have the honor to transmit copies of a communication which, in each case, I addressed to the minister of foreign affairs. They are numbered respectively 1 and 2. To these communications I received a reply, of which enclosure No. 3 is a copy.

In March of this year I received another appeal from a man named Frank Pierre, who was in the service of the New England Glass Company, of Boston, and who represented himself to have been the victim of brutal treatment from the authorities of his native place, which he had just revisited after an absence of sixteen years. I spoke of the matter to Mr. Drouyn de Lhuys, who requested me to make a written representation of the case, when he promised to give the subject prompt attention. Therefore I sent him the annexed communication, numbered 4.

The following day I had occasion to address the minister of foreign affairs the annexed communication, No. 5, in behalf of still another naturalized citizen, who had appealed to me from prison for protection against conscription.

To these communications I received in reply two notes, of which copies, numbered respectively 6 and 7, are annexed.

Meantime Frank Pierre called upon me and gave me full details of his treatment and of his liberation. I made up my mind that if naturalized citizens of the United States, on their arrival in France, were subject to such brutalities without the knowledge of the government, it was my duty to take such notice of them as should leave the government no such excuse for their repetition; and if, on the other hand, they were in accordance with government instructions, it was proper that the government should be required to avow it, that we may take such steps for the protection of our adopted citizens as circumstances and our national dignity may prescribe. It is certain, at least, that our adopted citizens of French origin should be notified before leaving America of the indignities to which they expose themselves by returning to France, unless this government is prepared to recognize in an American passport presumptive evidence of nationality sufficiently strong at least to protect its bearers from imprisonment.

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Under the influence of these considerations I addressed to the minister of foreign affairs to-day a protest, of which enclosure No. 8 is a copy, thereby reserving to our government the right to reopen the subject, if it shall ever see fit to do so.

I am, sir, with great respect, your obedient servant,

JOHN BIGELOW

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

[Enclosure No. 1.]

Mr. Bigelow to Mr. D. de Lhuys.

LEGATION OF THE UNITED STATES,
Paris, August 10, 1865.

SIR: I have the honor to enclose a communication received from Mr. Charles Adam, notary at Marmontier, Bas Rhin, to which I beg your excellency's attention.

Mr. Adam represents that a native of that canton, named George Schneider, left his native village with a passport at the age of seventeen years, and went to the United States, where he became a naturalized citizen, and whence, after a residence of some thirteen or fourteen years, three of which were spent in the military service of his adopted country, he returned to France in July last.

Mr. Adam further represents that in his absence Schneider was conscripted, and, consequently, upon his return to France he was arrested, his naturalization papers taken from him, and he was thrown into prison at Strasbourg, where he is now lying.

I beg your excellency will take an early opportunity of satisfying yourself of the correctness of these allegations, and, if established, that no time may be lost in restoring to Schneider the privileges and immunities to which he may be entitled in France as a citizen of the United States, including the naturalization papers of which he is alleged to have been deprived.

I beg your excellency will accept assurances of the high consideration with which I have the honor to be your very humble and very obedient servant,

JOHN BIGELOW.

His Excellency Monsieur DROUYN DE LHUYS,
Minister of Foreign Affairs, Paris.

[With enclosure No. 1.—Translation.]

MARMONTIER, *August* 2, 1865.

Mr. MINISTER: The undersigned has the honor, very respectfully, to represent to you that the person called George Schneider, native of Allenwiller, canton of Marmontier, left his native place, provided with a passport, at the age of seventeen years; that he went to America, where he remained until the month of June, 1865; that he served as a soldier in America during three years; that he has a certificate of naturalization from the American authorities; that he came to France in the month of July, 1865; that in passing through Paris he went to call upon your excellency to place himself under your protection; that he passed fourteen days at Allenwiller, and on yesterday was arrested by the gendarmerie of Marmontier as refractory; that he is now in prison at Strasburg, and that his papers emanating from the American authorities are in the hands of the military authority at Strasbourg.

It seems that during his absence, which lasted thirteen or fourteen years, his

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parents caused his name to be borne on the recruiting census list, and his father, on drawing lots, drew an unlucky number for him, and he was consequently matriculated in the seventh regiment of the line.

He has charged me to send you these details, and to beg you will be so good as to interest yourself in him as an American citizen.

He has also told me that at the time of his visit to you you were pleased to promise him your protection. As the moment has arrived when he has need of that protection, he ventures to recall your promise, hoping not to do so in vain.

Shall I venture, your excellency, to beg myself that you will please to give effect to the applications of Mr. Schneider, and receive in advance the thanks of your humble servant,

CH. ADAM, *Notary*.

His Excellency THE MINISTER FROM AMERICA, *at Paris*.

[Enclosure No. 2.]

Mr. Bigelow to Mr. Drouyn de Lhuys.

LEGATION OF THE UNITED STATES,
Paris, August 11, 1865.

SIR: I have the honor to enclose a communication which reached the United States consulate at Paris, duly forwarded by the French military authorities, from M. Jean Baptiste Cochener, now in confinement in the military prison of Metz, to which I beg your excellency's attention.

M. Cochener represents that he is a native of Uni, in the department of the Meuse; that he left France at the age of seventeen years, and went to the United States, where he became a naturalized citizen, and whence, after a residence of some fourteen years, he returned to France in July last at the request of his dying mother, leaving his four children in the United States, where he intended shortly to return.

He further represents that he has all the papers requisite to establish the fact of his being a citizen of the United States; but that, upon being denounced as not having submitted to the conscription, he was arrested at Vaucouleurs and thrown into the military prison of Metz, where he is awaiting judgment.

I beg your excellency will take an early opportunity of satisfying yourself of the correctness of these allegations, and if established that no time may be lost in restoring to Cochener the privileges and immunities to which he may be entitled in France as a citizen of the United States.

I beg your excellency will accept assurances of the high consideration with which I have the honor to be your very obedient and very humble servant,

JOHN BIGELOW.

His Excellency M. DROUYN DE LHUYS,
Minister of Foreign Affairs, Paris.

[With enclosure No. 2.—Translation.]

METZ, *July* 10, 1865.

Mr. CONSUL: I come to ask from your kindness, as representing the rights of my country, to be so good as to ask from the French government that I be set at liberty.

I was born in France, at Uni, Canton of Vaucouleurs, department of the Meuse; hoping to make a position for myself, I embarked at the age of seventeen, in the year 1851, for Pennsylvania. That country having pleased me, and having created by my labor resources enough for living, I made myself a

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naturalized American in the month of May, 1857, taking the oath of fidelity to the nation, which for fifteen years has been mine. I married in Pennsylvania, and my wife died the 25th of March, 1865, leaving me with four children, and my actual domicil is at Tidioute, called "Filtam Chipp," and makes part of the jurisdiction of Warren county in Pennsylvania. My mother being at the point of death, wrote, begging me to come and see her before her last hour. I yielded to her entreaties and embarked for France, leaving my family in my country. The authority at Meadville delivered me a passport and all the papers necessary to enter France. Thinking myself quite safe I landed on French soil the 2d of July, 1865; was denounced as refractory, and not having been subjected to draft was arrested the 15th of July at Vaucouleurs and taken to the military prison at Metz, in the 5th military division, and shut up to be tried.

It is for this reason, Mr. Consul, I ask from your kindness to make application to obtain my being set at liberty as an American citizen.

I am provided with all my papers, and ought to be back in Pennsylvania by the 27th, to take care of my family and continue to support them by my toil.

Relying on your generous aid, I am, Mr. Consul, with respect, your very obedient, humble servant,

JEAN BAPTISTE COCHENER,
At the Military Prison at Metz, Moselle.

The UNITED STATES CONSUL.

[Enclosure No. 3.—Translation.]

M. Drouyn de Lhuys to Mr. Bigelow.

PARIS, *August* 14, 1865.

SIR: I have received the two despatches which you have done me the honor to address to me, on the dates of the 10th and 11th of this month and subject of Messrs. George Schneider and Jean Baptiste Cochener, recently arrested in France as refractories, although after having become naturalized Americans; and who ask you to have them set at liberty.

This is not the first time that questions of this kind are presented, and my predecessor has already had occasion to make known to Mr. Faulkner, especially by a letter of July 5, 1860, relative to Mr. Zeiter, that in a matter so serious as that of military recruiting, where an extensive public interest may be complicated with the rights of individuals, it becomes incumbent to invest with the surest guarantees the decision to be arrived at, and to restrict the interference of the administration within the straightest limits. Thus the law of March 21, 1832, which governs the matter, has reserved the appreciation of questions of nationality to the courts, before which Messrs. Schneider and Cochener will have to present their reclamations.

This delegation of jurisdiction should not, moreover, awaken the susceptibilities of foreign countries, because it constitutes the best guarantee of impartiality which can be offered to those having right, as can be proved in case of need by the decision rendered in 1860, in favor of Mr. Zeiter, by the court at Wissembourg. Nevertheless, I hasten to communicate, by way of information, to the marshal minister of war the reclamations of Messrs. Schneider and Cochener.

Accept the assurances of the high consideration with which I have the honor to be, sir, your very humble and very obedient servant,

DROUYN DE LHUYS.

The MINISTER OF THE UNITED STATES, *at Paris.*

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[Enclosure No. 4.]

Mr. Bigelow to M. Drouyn de Lhuys.

LEGATION OF THE UNITED STATES,
Paris, March 27, 1866.

SIR: I am sorry to be compelled to invite your excellency's attention to another case of imprisonment of an American citizen in France upon the pretext of his liability to military service.

From information derived through different sources, I am advised that François Pierre, a naturalized citizen of the United States, whither he was taken by his parents sixteen years ago, when but sixteen years of age, has been arrested as a conscript at Sarrequemenes, deprived of his passport and naturalization papers, and thrown into prison at Metz. From the evidence furnished me of the character of this person, I do not permit myself for an instant to suspect him of having incurred this degradation through any violation of the laws of France; neither can I understand why an American citizen, travelling under the usual passport of his government, should be subjected to indignities which ought only to be visited upon criminals.

I trust your excellency will find it convenient to give to Pierre's case your early attention, that neither his imprisonment nor his separation from his family and his affairs may be unnecessarily prolonged.

I am sure it would be a satisfaction to my government also to know upon what pretext Americans armed with the presumptive evidences of their nationality should be imprisoned while the authenticity of those evidences is being tested. This is the third case I have had occasion to bring to your excellency's attention within the last seven months, of American naturalized citizens stripped of their naturalization papers and passports, and thrown into prison.

The two other cases, one of a Mr. Schneider, and the other a Mr. Cochener, were the subjects of communications to your excellency, dated respectively the 10th and 11th of August last. Your excellency replied that the law of March 21, 1832, committed the decision of questions of nationality to the tribunals to which the parties in question should address themselves. Since then I have been favored with no information of the fate of these men; no charges of crime against them have been communicated to me, neither has the news of their liberation, if they have been liberated, transpired at this legation I am far from supposing that there has been in either of these instances any deliberate intention on the part of the French authorities to treat with disrespect the protections of my government, but I fear from what has occurred, and is frequently occurring, that such protections do not possess the value in France that in the United States they are supposed to possess. They are supposed with us to furnish presumptive evidence of nationality; in France it appears that practically they do not. I would be glad to know if such is the view taken by the imperial government. If it is I would wish to be authorized to correct the grave misapprehension which exists upon the subject in the United States; and if it is not, it would gratify me to be assured that measures were to be taken to prevent a repetition of mistakes similar to those with which it is so often my unwelcome duty to trouble your excellency.

I pray your excellency to accept renewed assurances of the high consideration with which I have the honor to be your very humble and very obedient servant,

JOHN BIGELOW.

His Excellency M. DROUYN DE LHUYS,
Minister of Foreign Affairs, &c., &c., &c.

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[Enclosure No. 5.]

Mr. Bigelow to Mr. Drouyn de Lhuys.

LEGATION OF THE UNITED STATES,
Paris, March 29, 1866.

SIR: Recalling the note which I had the honor to address your excellency yesterday in reference to the reclamation of one François Pierre, a naturalized citizen of the United States, detained in prison at Metz under pretext of liability for military service, I beg to invite your excellency's attention to another case of a similar character which has been brought to my notice to-day. The particulars of this, so far as they are known to me, are recited in a note from the party complaining, who calls himself Frederick Todry. He states that he left France when only 17 years of age; that he has resided in the United States since 1853; that he was naturalized there in 1858; that he returned to France in February last, when he was arrested, deprived of his naturalization papers, and placed under military arrest in the fortress of Besançon, from whence he writes.

Permit me to express the hope that this case also may occupy the early attention of your excellency, and that it, as well as those already referred to your excellency, may receive such a disposition as the principles of humanity and the comity of nations may dictate.

I avail myself of this occasion to renew to your excellency assurances of the high consideration with which I have the honor to be your very humble and very obedient servant,

JOHN BIGELOW.

His Excellency DROUYN DE LHUYS,
Minister of Foreign Affairs, &c., Paris.

[Enclosure No. 6.—Translation.]

Mr. Drouyn de Lhuys to Mr. Bigelow.

PARIS, *March* 29, 1866.

SIR: You have done me the honor to write to me under date of 27th of this month on the subject of the arrest and imprisonment of the person called François Pierre, claiming the quality of naturalized American citizen.

I hastened to write to the minister of war to beg him to give me precise information on this affair, and I shall have the honor to answer you as soon as I shall have received it.

As for Messrs. Schneider and Cochener, an order of no cause has taken place in favor of the second, for the reason that he was a naturalized foreigner more than five years, and in consequence the offence of refractoriness which was charged against him was covered by limitation of time.

As for Mr. Schneider, the departmental commission has pronounced his discharge, and he also has been set at liberty. I had reason to suppose the parties interested had brought these decisions to your knowledge.

Accept the assurance of the high consideration with which I have the honor to be, sir, your very humble and most obedient servant,

DROUYN DE LHUYS.

Mr. BIGELOW,
Minister of the United States, Paris.

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[Enclosure No. 7.—Translation.]

Mr. Drouyn de Lhuys to Mr. Bigelow.

PARIS, *March* 29, 1866.

SIR: You have done me the honor to write to me yesterday, March 29, on the subject of Mr. Frederick Todry, who had been arrested at Besançon as refractory.

I hastened to inquire into this affair, as well as into that of Mr. François Pierre, and for precise information from the minister of war, and will have the honor to answer you as soon as I shall have the elements necessary for making a decision with full knowledge of the cause.

Accept the assurances of high consideration with which I have the honor to be your very humble and obedient servant,

DROUYN DE LHUYS.

Mr. BIGELOW,
Minister of the United States of America at Paris.

[Enclosure No. 8.]

Mr. Bigelow to Mr. Drouyn de Lhuys.

LEGATION OF THE UNITED STATES,
Paris, April 13, 1866.

SIR: Recalling the communication which I had the honor to address to your excellency on the 27th ultimo in reference to the arrest and imprisonment of François Pierre, a naturalized citizen of the United States, I beg now to invite your excellency's attention to the sworn statement of Pierre which is enclosed.

By this statement, the main facts of which your excellency can readily verify, it would appear that Pierre has been treated with excessive rigor and subjected to indignities which would hardly be visited upon the most degraded criminals. The only pretext assigned for his arrest is that he was liable to military service, though he was fortified with papers which proved that he had been a citizen of the United States sixteen years, and with an American passport, which should have protected him from insult in all countries in friendly relation with the United States.

While I do not permit myself to suppose for a moment that the hardships of which I complain had their origin in any unkind feeling towards the people or government of the United States, I feel it to be my duty, in view of the frequent recurrence of such cases during my residence near his imperial Majesty, to protest, and I accordingly do hereby formally protest against the original incarceration of François Pierre and against all the indignities of which he was subsequently the victim.

I beg to renew to your excellency the assurances of the high consideration with which I have the honor to be your excellency's very obedient and very humble servant,

JOHN BIGELOW.

His Excellency Monsieur DROUYN DE LHUYS, *&c., &c., &c.*

[With enclosure No. 8.]

Deposition of Frank Pierre.

LEGATION OF THE UNITED STATES,
London, England.

I, Frank Pierre, being duly sworn, depose and say, that I am a native of the canton of Bitche, in France; that I lived there up to the age of sixteen years,

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and then emigrated to America in the year 1851; that I became a naturalized citizen of the United States on the 23d of October, 1856. On the 8th of January, 1866, I applied for and received a passport from the Department of State, and came to France to visit my sisters, who reside at St. Louis, department of the Moselle. I arrived at that place on the 15th of March, and on the day following, the mayor of that city informed my aunt, Miss Shild, that my presence in the place was unlawful, and that unless I immediately left the town, he, the mayor, would be obliged to inform the gendarmes of my presence, and order my arrest. I then sought a personal interview with the mayor and asked him under what pretext this warning was given. The mayor said I was liable to military service, and that as soon as my presence was known to the gendarmes, I would be arrested. I then said I would myself inform the gendarmes of my presence; that I was not engaged in any improper or unlawful practices, and would not leave the city until I was ready. I then went to Bitche, the capital of the canton, saw the brigadier of the gendarmes, and showed him my passport and papers of naturalization. The brigadier admitted that no claim for service could be made upon me, and the next day he asked me for these papers, saying that he would use them to have my name erased from the rolls, and would then restore them to me again. The next day, which was Monday, the 19th of March, while I was at dinner in the house of my uncle François Pierre, glass-worker of St. Louis, I was seized by a party of gendarmes and taken in an open vehicle at my own expense through a drenching rain-storm to Bitche. When I arrived there after a journey of ten kilometres through the rain, I was thoroughly chilled and exhausted, my clothes were saturated with water, and valuable papers and drawings which I had collected for the use of the New England Glass Company, in whose employment I am, were entirely spoiled. In this state I was thrust into a damp prison, where I remained all night, without an opportunity of drying my clothes, notwithstanding that my uncle, Mr. Gerard, of Bitche, requested permission of the brigadier to keep me at his house during the night, offering to hold himself responsible for me, and to pay the expense of a guard for me. After passing a night without sleep, in the morning half a loaf of bread and a bottle of water were offered me for my breakfast, which I refused. It was only after an altercation with the guard that I was at last permitted to eat the breakfast that my uncle had prepared for me. I was then taken to Surreguemines in a wagon which I hired at my own expense, being unable to walk that distance, thirty-two kilometres. I was there thrown into a prison with common criminals of every description, and kept two days and nights in their company. The second day the procurer imperial came and searched my person and valise, and took from me all my papers, even including my letters from my wife and family, and kept them for five days. The third day I was taken from Surreguemines to Metz, and there I had to live on prison fare in common with the rest of the prisoners. I had asked them repeatedly to let me have some food that I could eat at my own expense, but the answer was that the prison regulations did not permit it. I was detained there seven days. I was then set at liberty, my papers restored to me, without a word of explanation.

FRANK PIERRE.

Sworn and subscribed to by Frank Pierre, before me at the legation of the United States, London, this eleventh day of April, A. D. 1866, and of the independence of the United States the ninetieth.

BENJAMIN MORAN,
Secretary of Legation.

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Mr. Bigelow to Mr. Seward.

No. 303.] LEGATION OF THE UNITED STATES,
PARIS, *April* 14, 1866.

SIR: Referring to my despatch No. 302, I have the honor to transmit the enclosed note this day received from the minister of foreign affairs, in regard to the arrest and imprisonment of American citizens in France under pretext of military service.

I am, sir, with great respect, your obedient servant,

JOHN BIGELOW.

Hon. WILLIAM H. SEWARD,
Secretary of State.

[Enclosure.—Translation.]

Mr. Drouyn de Lhuys to Mr. Bigelow.

PARIS, *April* 13, 1866.

SIR: I had the honor to write to you on the 29th and 30th March, to let you know that I had called the attention of the minister of war to the reclamations of Messrs. Godry and François, who were the objects of your letters of the 27th and 29th of same month.

Marshal Randon has just informed me, and I hasten to let you know, that these two persons have been set at liberty. Moreover, orders have been given for suspension of the judicial action to which they were subject on the score of the offence of refractoriness until the civil courts, before which Messrs. Godry and François will have to present themselves, shall decide whether they have or have not lost the quality of Frenchmen, and since what time.

Accept, &c.,

DROUYN DE LHUYS.

To Mr. BIGELOW.

Mr. Bigelow to Mr. Seward.

No. 311.] LEGATION OF THE UNITED STATES,
Paris, April 27, 1866.

SIR: Since posting my despatch No. 302, in relation to the arrest and imprisonment of François Pierre, a naturalized citizen of the United States, a correspondence of which I enclose a copy has passed between the ministry of foreign affairs and this legation. I am promised an early official reply to my last note, which I hope may close the correspondence satisfactorily.

I am, sir, with great respect, your very obedient servant,

JOHN BIGELOW.

Hon. WILLIAM H. SEWARD,
Secretary of State, &c., &c., &c.

[Enclosure No. 1.]

Mr. Drouyn de Lhuys to Mr. Bigelow.

PARIS, *April* 16, 1866.

SIR: You did me the honor to write to me the 13th of this month to call my attention to the declaration made at the United States legation in London by Mr. François Pierre on the subject of the ill treatment of which he had to complain on occasion of his imprisonment.

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I thank you for having repelled any supposition that the hardships of which Mr. Pierre may have been the subject were caused by any ill feeling in respect of the people or government of the United States. The conduct of the French authorities could not have been swayed by any such motive. It is probable that Mr. François Pierre exaggerated certain circumstances which unavoidably happen when there is a necessity to transfer from one place to another an individual under arrest. However it may be, I send the declaration of Mr. François Pierre to the minister of war, requesting him to order an inquiry on the subject. I shall have the honor at an ulterior date to inform you of the result. But at this time I cannot withhold the remark that the first use Mr. François Pierre thought he should make of his liberty was to withdraw himself from the jurisdiction of the French courts, before which he was to prove the loss of his character of Frenchman by the acquisition of a new nationality.

Accept, sir, the assurance, &c., &c.,

DROUYN DE LHUYS.

Mr. BIGELOW,
Minister of the United States of America at Paris.

[Enclosure No. 2.]

Mr. Bigelow to Mr. Drouyn de Lhuys.

LEGATION OF THE UNITED STATES,
Paris, April 24, 1866.

SIR: I have to acknowledge the receipt of your excellency's communication of the 16th instant in reference to the arrest and imprisonment of François Pierre at Sarreguemines in March last.

Your excellency expresses the opinion that Pierre probably exaggerated the rigors which inevitably attend the transfer of a prisoner from one place to another. I trust your excellency's opinion is well founded, though I regret to say that I am in possession of no evidence tending to invalidate the statements of Pierre and another eye-witness of the treatment of which he complains.

Your excellency is pleased to add that the first use that Pierre made of his liberty was to withdraw himself from the jurisdiction of the French tribunals before which it was his duty to establish the loss of his quality as a Frenchman by the acquisition of a new nationality. I do not know that I precisely comprehend the implication intended to be conveyed by these words of your excellency, but if they were designed to reproach Pierre with a violation of good faith in withdrawing from France when he did, I do not hesitate to express my conviction that they do him injustice.

Pierre came to England as the agent of a New England manufacturing company; he thought fit to profit by the opportunity to visit the place of his birth, and the friends of his early youth. He arrived there on the night of the 15th March. On the following day he was arrested and kept a prisoner until the 28th of March, when he was liberated and his passport and naturalization papers returned to him. Then, instead of availing himself of his liberty, as your excellency intimates, to withdraw from France, he came to Paris, where I first saw him. After a sojourn here of two days, he left for London to join his wife, whose anxieties he was naturally anxious to relieve, and to attend to the business for which he had been sent to Europe. He assures me that when his papers were returned to him, he had no suspicion that there was any further question of his right to his freedom, nor did he receive any intimation from any quarter that he was expected to abide the result of any further investigation. If the fact be otherwise, and if Pierre entered into any engagement, formal or implied, to remain in France after his liberation, I should esteem it a favor if

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your excellency would inform me of the nature and terms of such engagement. I am at a loss to comprehend upon what principle such terms could have been imposed, or if imposed, that Pierre, with his presumed tendency to exaggerate his grievances, should not have added this to the list.

But whether the rigors of Pierre's confinement were exaggerated or not, and whether he took refuge from his persecutors in England or not, are, I suppose, in this case, secondary questions. It is not disputed that he was arrested with ample evidence of his American citizenship upon his person, and detained a prisoner for nearly a fortnight without any charge or pretence of crime. With all the presumptive evidence of his nationality in his favor, he was treated like a felon. This is so inconsistent with the privileges which by the comity of nations are usually accorded to strangers, fortified with the ordinary evidences of their nationality, that I venture to believe your excellency will agree with me in thinking that a more precise definition of the authority and value of an American passport in France would have a most desirable tendency to prevent misunderstandings.

I avail myself of this occasion, &c., &c., &c.

JOHN BIGELOW.

His Excellency Monsieur DROUYN DE LHUYS,
Minister of Foreign Affairs, Paris.

[Enclosure No. 3.—Translation.]

Mr. Drouyn de Lhuys to Mr. Bigelow.

DEPARTMENT OF FOREIGN AFFAIRS,
Paris, April 25, 1866.

MY DEAR MR. BIGELOW: I have the honor to send you herewith, under the character of a private note, some details on the subject of the arrest of Mr. Francis Pierre.

Yours, very sincerely,

DROUYN DE LHUYS.

P. S.—The details are given to me by the minister of war.

[Enclosure No. 4.—Translation.]

Mr. François Pierre, charged with refractoriness, was regularly arrested by the gendarmerie of St. Louis, Moselle.

The mayor of St. Louis and the local gendarmerie had not the duty to appreciate, to judge of his remonstrances, and to pass upon the question whether he was freed from the obligations of the law on recruiting. Their duty was to cause him to be taken at once, as the law directs, to the general commanding the fifth military division at Metz. So, in accepting as true the recital of the remonstrant, he could not have been the object of any abuse of power.

If François had with him papers of value which were damaged on the way, the administration is not responsible for this accident; he could have left these papers with his uncle, at whose house he was arrested, or have intrusted them to the gendarmes of the escort. For the rest, it was in an open wagon, and at his cost, he says, that he was taken to Bitche.

The prison at Bitche is a military house of correction, in which there is no cantine, (public house;) this explains why François Pierre could not get what he wished, although he was shut up in a hall set aside especially for passengers. The principal agent was right in objecting to his receiving from without aliments

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other than those fixed by the rules: there would be too many abuses to contend with if every one detained could at his pleasure modify the regulations of the prison.

In fine, if at Bitche François received only half a loaf of bread and water, it is because he chose to go before the dinner hour, for in fact the military who are detained have every day a ration of meat and a strong soup. He says himself he only stopped one night.

The remonstrant again says, that at his expense he travelled by railroad from Bitche to Sarreguemines; it is because he would have a place that pleased him; because, according to the regulations, all men travelling under escort of gendarmerie must travel by rail.

The prison of Sarreguemines where François passed two days and two nights is a civil prison receiving military men passing on, but subject to the supervision of the imperial advocate. Thus it is explained that the declarant, although arrested simply for a military offence, would have been searched and his papers temporarily taken from him.

In fine, arriving at Metz, François was regularly shut up in the military prison of justice. As he says himself, he was there subjected to the rules as other prisoners; and when he adds that he asked in vain that they "would furnish at his expense something he could eat," that evidently signifies that he wanted something beside ordinary prison fare. This ordinary, established by regulation of February 6, 1865, consists also in a ration of meat and a good soup every day, and may be improved by buying in the kitchen certain provisions, the sale of which is allowed.

In brief, Mr. François who was used to comforts, may have suffered more than another the consequences of his arrest, but in reality was not the victim of any ill treatment.

Mr. Bigelow to Mr. Seward.

No. 312.] LEGATION OF THE UNITED STATES,
Paris, April 28, 1866.

SIR: I have the honor to enclose a copy of a note this day received from the minister of foreign affairs, in further reply to my last communication to him in reference to the arrest and imprisonment of François Pierre. Though his reply is far from satisfactory, I shall consider the correspondence as closed, unless another case of a similar character is reported to me, which I think is not very likely to occur. In a conversation with Mr. Drouyn de Lhuys upon the subject a few days since he said he would give orders to have the inquiry into the genuineness of passports and papers henceforth made more promptly. Meantime, if naturalized citizens of the United States liable to conscription in Europe but for their naturalization could be notified in some way to go at once, upon their arrival in France, and report at the *mairie* of the district in which their names are enrolled, producing their evidences of nationality, and ask to have their names erased from the conscription list, it would then probably be their own fault if they experienced any of the rigors of which Pierre complained.

I am, sir, with great respect, your obedient servant,

JOHN BIGELOW.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

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Mr. Drouyn de Lhuys to Mr. Bigelow.

[Enclosure.—Translation.]

PARIS, *April* 27, 1866.

SIR: I hasten to answer the letter relating to François Pierre which you did me the honor to write me on the 24th of this month.

From the information furnished me by the minister of war, it appears that the policemen who arrested François Pierre, not being empowered to decide the question whether or not he was subject to military service, were obliged to take him before the general commanding the division of Metz. Accidents of the journey, such as damage to his papers by bad weather, being unavoidable, the department is not responsible for them.

The treatment of the plaintiff in the prisons of Bitche, Sarreguemines, and Metz, of which he complains, must have been similar to that of the other convicts; and he must have wanted something more than the ordinary prison fare, which he did not get, and this is the cause of his complaint.

But these details, as you must acknowledge, are of small import; the chief point which you specify, and which I agree to, is to determine what value is put upon an American passport in France.

In regard to this you state that François Pierre proved to be an American citizen by his papers, and was arrested and treated as a criminal, without the form of a proper trial. If that were so, I would be the first to say, with you, that such a proceeding is inconsistent with international customs; but the case is somewhat complicated. The fact is, the person named François, a Frenchman by birth, was included in the quota for 1849, and as he did not respond to the summons, he has been considered as an insubordinate since the year 1850. Now, when François came back to France he was still in insubordination, and as guilty of that offence he was arrested. True, he was the bearer of an American passport, and no official in France will think of disputing the respect due to it. If François had been an American by birth, or a citizen of the United States, under other circumstances, his passport would certainly have protected him from prosecution for the offence in question; but when a person returns to his native country with foreign naturalization papers, it is not just to lay aside his nativity and admit his new nationality as protecting him by a retroactive effect, contrary to every principle of law, against former acts, and particularly against offences of which he was guilty while he was a Frenchman, as in the present case. His presence in his native country obliges him to explain his case by the laws of the land, and as long as he has not done that, he is considered to have preserved his primitive citizenship.

Now, who is the competent judge of the question of nationality? The government of the Emperor has more than once had occasion to discuss that point with the United States legation. I will refer in particular to the correspondence of 1860 with Mr. Faulkner, your predecessor, in regard to Zeiter's case. In France the departments have no right to judge of cases of military recruiting, that jurisdiction being reserved by law to courts of justice. This, so far from offending foreign countries, is the best security we could offer against arbitrary decisions.

Such is the justice of our statutes, and it leaves no cause of action to the departments.

Fortunately difficulties of this kind do not often occur; and I will promise to use all the moderation compatible with the meaning of the law in the settlement of these questions.

Accept the assurances of the high consideration with which I have the honor to be, sir, your very humble and most obedient servant,

DROUYN DLHUYS.

Mr. BIGELOW,
Minister of the United States at Paris.

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Mr. Seward to Mr. Bigelow.

No. 453.] DEPARTMENT OF STATE,
Washington, May 7, 1866.

SIR: I recur now to your two despatches of the 13th of April, Nos. 302 and 303.

In those papers you have given us an account of your intervention in the cases of George Schneider and J. Baptiste Cochener, François Pierre and Frederick Todry, severally. Each of these persons, though a native of France, was naturalized in the United States, and two of them served in our military forces during the recent war. Each of them having returned to France bearing a passport of this government, was arrested, cast into prison, and detained a painful period, awaiting trial for refractoriness against conscription, as a crime against the laws of the empire.

Your despatches are accompanied with the correspondence which has taken place on this subject between yourself and Mr. Drouyn de Lhuys.

It is gratifying to perceive that the replies of Mr. Drouyn de Lhuys were made with due consideration, and in a becoming and friendly spirit. It is also a source of much satisfaction that all the parties were, after considerable delays, released. You will, if opportunity offers, obtain from the several parties such statements as will enable us to present applications in their behalf, respectively, for indemnity for losses and hardships, if there shall be found sufficient merit to support such a measure.

In regard to the general subject of the dishonor in France of our passports of naturalized citizens, the President thinks it desirable that you should solicit a conference with Mr. Drouyn de Lhuys.

In such a conference you may say to him that we appreciate the difficulties and the delicacy of a conflict between immunities demanded by the passport, and the laws of military conscription. We have encountered the embarrassment of that conflict in our late civil war. The result of our late experience is, that a foreign passport may be safely taken as furnishing presumptive evidence of a title to exemption from military service, so long, at least, as the government which grants the passport shall be found to be acting in good faith and in conformity with the law of nations.

Second. That when a person representing himself to be an alien, and whether producing a passport or not, is conscripted, he shall be at liberty to present his claim, with evidence in its support, to a competent military tribunal, by which the case shall be heard summarily, a discharge by such military tribunal to be final. If, on the contrary, the claim of an alien is overruled by the military tribunal, then the discharge with the facts relative to the case, shall be remitted to the minister of state, charged with the conduct of foreign affairs.

At every stage of the case the representatives of the nation whose protection is invoked are allowed to intervene. If the department of foreign affairs decides the claim of alienage to be well taken, the conscript is immediately released. If, on the contrary, the claim of alienage is denied by that department, then it becomes a subject of diplomatic discussion.

A considerable proportion of the inhabitants of the United States are foreigners, either naturalized or unnaturalized. They came to us from all the nations of Europe, as well as from American States. We raised in four years, not altogether without conscription, armies unparalleled in numerical force, yet cases of injustice and hardship resulting from the denial of justice on the plea of alienage are believed to have been very rare.

You will submit to Mr. Drouyn de Lhuys, in a friendly manner and spirit, the question whether it may not be found practicable to make some modification of the imperial military laws, in conformity with these suggestions.

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All the vigor of invention, all the resources of commerce, and all the influences of civilization combine to stimulate intercourse between citizens and subjects of friendly states. Care ought to be taken by every government not to obstruct this intercourse unnecessarily, or to suffer occasions for the wounding of national sensibilities to arise, where they can be prevented.

I feel sure that the enlightened government of France will concur in these sentiments.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

JOHN BIGELOW, Esq., *&c.*, *Paris.*

Mr. Bigelow to Mr. Seward.

No. 395.] LEGATION OF THE UNITED STATES,
Paris, December 22, 1866.

SIR: I have the honor to transmit a copy of a communication which I addressed to the minister of foreign affairs on the 8th instant, and a translation of his reply, in relation to the arrest and imprisonment of an American citizen named Leopold Hirsch, upon a claim of military service, by the French authorities at Strasburg.

I am, with great respect, your obedient servant,

JOHN BIGELOW.

Hon. WILLIAM H. SEWARD,
Secretary of State.

[Enclosure No. 1.]

Mr. Bigelow to the Marquis de Moustier.

LEGATION OF THE UNITED STATES,
Paris, December 8, 1866.

SIR: I have the honor to inform your excellency that I have received from the consul of the United States at Strasburg the following statement of facts:

Leopold Hirsch, a native of Batzendorf, department of the Bas Rhin, emigrated to the United States in 1855—being sixteen years of age—was duly naturalized, and has ever since resided in the United States. About two months ago he came to France to visit his aged parents, and at once reported his presence to the maire of Batzendorf, exhibiting his American passport and his papers of naturalization; notwithstanding which he was arrested, on the 24th of November last, at his father's house in Batzendorf, by the imperial gendarmerie, his evidence of citizenship forcibly taken from him, and himself confined in the military prison at Strasburg.

The general commanding has refused to exercise the discretion which belongs to him of releasing Mr. Hirsch, upon proper security, until his trial, although application has been made in proper form for that purpose.

I regret that I am compelled to ask so frequently the intervention of his Majesty's government against the arbitrary and apparently unnecessary rigors of the military authorities against American citizens visiting France.

I avail myself of this occasion to renew the assurances of the high consideration with which I have the honor to be your excellency's very obedient and very humble servant,

JOHN BIGELOW.

His Excellency the MARQUIS DE MOUSTIER,
Minister of Foreign Affairs.

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[Enclosure No. 2.—Translation.]

The Marquis de Moustier to Mr. Bigelow.

PARIS, *December* 19, 1866.

SIR: Upon the receipt of your letter of the 8th of this month, relative to Leopold Hirsch, claiming to be a naturalized American, arrested as *insonmis* at Batzendorf, I wrote at once to the minister of war, to ask him to take measures befitting this affair.

Marshal Randon has just informed me that orders have been given to the general commanding the sixth division that the said Hirsch should immediately be liberated provisionally, on condition that he place himself immediately on trial before the tribunal competent to judge of his nationality.

The Emperor's government has already had occasion to explain to the legation of the United States that, as the law has formally delegated to the tribunals the decision of questions of nationality, the administration could not intervene on this point. I can only refer in respect to this to the observations contained in the letter of my predecessor, of the 27th of April last, in a similar case.

Accept the assurances of the high consideration with which I have the honor to be, sir, your very humble and very obedient servant,

MOUSTIER.

Mr. BIGELOW,
Minister of the United States at Paris.

PRUSSIA.

Mr. Wright to Mr. Cass.

[Extract.]

No. 32.] LEGATION OF THE UNITED STATES,
Berlin, August 7, 1858.

SIR: A communication has been received at this legation from Mr. John Henne, dated Forback, France, enclosing the evidence of his American citizenship. Mr. Henne states that when seventeen years of age he left Prussia, the land of his birth, in company with an uncle, for the purpose of residing in the United States; but that in consequence of the death of his father he returned to Prussia to arrange certain family matters. He states, also, that he had no sooner arrived at his former home, upon the banks of the Moselle, in Prussia, than he discovered that he was about to be arrested and placed in the Prussian army, but that he had escaped by flight into France. Mr. Henne states that the Prussian authorities are very unjust to him, because they have long since received from his mother—according to a receipt which he enclosed for inspection—one thousand thalers, demanded in consequence of his departure from Prussia before performing his military duty.

The reply of the minister of foreign affairs to my note in this case needs no comment by me. * * * * *

I have the honor to be, very respectfully, your obedient servant,

JOSEPH A. WRIGHT.

Hon. LEWIS CASS,
Secretary of State.

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Mr. Wright to Baron Manteuffel.

LEGATION OF THE UNITED STATES,
Berlin, June 18, 1858.

MONSIEUR LE BARON: I enclose for your excellency two letters from John Henne, a citizen of the United States, now on his return to the land of his birth. He resides near my own native State, and is highly recommended to me as a gentleman and a quiet and peaceable citizen, who is most anxious to spend a few weeks with his friends. His mother has paid the fine assessed against him for failing to perform military duty; and I doubt not that his letters to me express the real sentiments of his heart. May I not ask of your excellency the gratification of his request, that he may be permitted to visit his friends and relatives?

I pray your excellency to receive the assurance of my highest consideration.

J. A. WRIGHT.

Baron MANTEUFFEL.

Baron Manteuffel to Mr. Wright.

[Translation.]

BERLIN, *July* 8, 1858.

SIR: On the receipt of your letter of the 18th ultimo, I hastened to inform the minister of the interior, and the minister of war, of the wish of Mr. John Henne, a citizen of the United States but a native of Prussia, to visit his native country to see his parents and friends.

In their reply, my colleagues say they hold it as a principle never to grant a refractory person permission to return to Prussia without complying with his military service, and therefore they cannot make an exception in the case of John Henne, who solicits that favor.

Returning to you herewith the three documents sent in your letter, I embrace the occasion to renew the assurances of my distinguished consideration.

MANTEUFFEL.

Mr. WRIGHT, *&c., &c., &c.*

Mr. Cass to Mr. Wright.

No. 18.] DEPARTMENT OF STATE,
Washington, May 12, 1859.

SIR: In the despatch from this department of December 10, 1858, you were requested to procure and transmit reliable information respecting the law of Prussia relating to natives of that country naturalized in the United States and returning to the places of their birth, and you were informed that upon its receipt the views of this government would be communicated to you upon various questions affecting that class of our citizens. Your letter transmitting this information has been received and submitted to the President; and I am now to convey to you his instructions for your guidance under the circumstances.

I need not repeat the considerations heretofore adverted to which induces European emigrants, naturalized in the United States, to desire to revisit the countries of their birth. It is certain that in some of these countries, Prussia particularly, serious impediments exist to the gratification of this desire, to the great injury of the persons thus harassed, and with no obvious corresponding advantage to the countries themselves.

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The grievances in Prussia of which we have a right to complain are of two descriptions: one being harsh regulations which it is competent for the government of the country to impose, but which are so oppressive and, it is believed, unnecessary, as to be scarcely consistent with that comity and courtesy which friendly states owe to one another; and the other being, in the opinion of the United States, in violation of the treaty between them and Prussia. I shall call your attention to these subjects of complaint.

The most friendly feeling has always existed between these two states, and the President confidently relies upon the disposition of the Prussian government to receive our representations in an amicable spirit, and to furnish such redress as the circumstances may justly call for. The change you anticipated in the government of Prussia by the inauguration of a regency, and to which you looked forward as an event that would probably prove favorable for the consideration of these subjects, having taken place, the present time may afford you a proper opportunity to urge these questions upon that government; and you will not fail to commence your task by impressing upon the minister of foreign affairs the importance which is attached in this country to the accomplishment of the objects indicated.

The rights of the citizens of the United States, and of Prussia, to enter and reside in the territories of those powers, respectively, are prescribed and regulated by the treaty between them of May 1, 1828. It is therein provided that "the inhabitants (meaning thereby, by the practical exposition of the parties, their respective citizens) shall mutually have liberty to enter the ports, places, and rivers of the territories of each party wherein foreign commerce is permitted." Baron Manteuffel, in the declaration contained in his note to you, "that from the existing laws of Prussia no former subject of the King, whatever his condition may be, has the right of claiming his readmission into Prussia," has advanced a pretension which this government considers palpably inconsistent with this clause of the treaty. The right of entrance is unconditional and unlimited; and no distinction is recognized in the enjoyment of its benefits between native-born and naturalized citizens. Nor is it competent for either of the parties to make such a distinction, and to restrict, at its pleasure, the operation of that instrument. Had there been any reason whatever to suppose that Prussia would assume this power, the treaty would not have been concluded, for this government has no constitutional authority to recognize classes among its citizens, and to embrace some of them in its treaty stipulations while others are excluded. It does not appear that this claim of a right to judge what American citizens shall be excluded from its benefits has ever been actually enforced, and its application in Mr. Dullye's case is clearly disclaimed. We may expect that it will be disavowed by the Prussian government and the obligations of the treaty admitted according to the plain import of the terms.

The reciprocal right of entrance into the territories of the parties having been thus provided for, provision was then made for residence therein in the following words: "They shall be at liberty to sojourn and reside in all parts whatsoever of said territories, in order to attend to their affairs; and they shall enjoy to that effect the same security and protection as natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing." This clause is sufficiently clear, in the judgment of this government, to preclude any controversy respecting its meaning. And the baron claims for the Prussian government a power of administration expressly at variance with the rights herein secured, and which, if exercised, would leave the treaty inoperative so far as regards the question of residence. In his letter to you he maintains that the Prussian government has the incontestable right to decide *per se* whether or not it be expedient for it to allow a stranger to sojourn in Prussia. The government of the United States, on the contrary, maintains that every American citizen has the incontestable right to enter the Prussian terri-

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tories, and there to remain undisturbed so long as he submits to the laws and ordinances there prevailing. It is not denied that the right claimed by Baron Manteuffel is one of the attributes of national sovereignty which any government may exercise when not restrained by conventional stipulations. But the United States and Prussia have contracted with each other that the power of expulsion shall not be assumed unless under the circumstances prescribed by the treaty. The question, therefore, in any given case, is not what the parties might do by the public law of the world, but what they may do consistently with the obligations they have respectively incurred.

The condition of residence being submission to the laws and ordinances, it is competent for the government of the country having reason to believe that this condition has been violated to direct an inquiry to be instituted, with a view to ascertain if there is any just ground of complaint against the suspected party. The ordinary criminal jurisdiction of the country is wholly independent of the treaty stipulations. These apply only to the power of expulsion. The manner of conducting this inquiry is not prescribed by the treaty; but it should, no doubt, be in conformity with the institutions of the country, and managed with fairness and impartiality.

In the despatch addressed to you from this department, December 10, 1858, this subject was briefly considered, and the right of the Prussian authorities to inquire into the conduct of American citizens in the same manner the conduct of Prussian citizens is inquired into, fully admitted; and this principle of administration leads necessarily to the admission that our citizens, resident in Prussia, are subject to all the police regulations of the kingdom, and responsible to the tribunals intrusted with their maintenance. The difference, however, in the constitution and practice of the judicial courts, and of these police tribunals, leads to one of the practical grievances you have pointed out. The ordinary courts of justice are open, and their proceedings free to public observation and scrutiny, while the parties accused are always heard in their defence. On the contrary, it appears that the police investigations are conducted in secret, and our citizens in such cases are kept in ignorance of the accusation and the accuser, and are thus deprived of the natural right of self-defence.

Independently of general principles of justice, which are violated by such a mode of investigation, there are obvious considerations why, in the determination of a question of right, like that in Dullye's case, arising out of conventional obligations with another country, the proceedings should be open, with proper opportunity of defence, so as to carry with them a satisfactory conviction of their justice and impartiality. Every Prussian subject residing in the United States would be entitled, in the event of an accusation against him, to this process of examination; and it is difficult to conceive what reasonable objections there can be to the introduction of the same system into Prussia, and its extension to all cases where the rights of American citizens are concerned. Sudden ejection from Prussia might be seriously injurious to an American citizen; and if he is kept in ignorance of the charges against him, he may be the victim of personal hostility, and learn their existence by the judgment of expulsion only.

I fully concur with you in the opinion that copies of the papers upon which an American citizen has been condemned should be furnished upon application. Indeed, it is so obviously just that I have been unable to conjecture what reason can be given for the refusal. Baron Manteuffel misapprehends the relation of the government of the United States to their citizens when he supposes that it cannot interest the government to know upon what evidence an American citizen has been excluded from the enjoyment of rights guaranteed by treaty stipulations. It interests this government at all times to know how the conventional engagements into which it enters are observed, and especially when they involve cherished personal rights. Without at all calling in question the good faith or impartiality of another government, it is certainly not unreasonable that

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this government should be furnished with the grounds of proceeding in any case which it may think demands its interposition. Without such a resource, it would have no means of judging how far its rights may have been respected or its citizens justly dealt with. The claim made by Baron Manteuffel, of the exclusive right of judgment in these cases, is not contested; but its possession furnishes an additional consideration in favor of the adoption of a mode of proceeding which would carry with it confidence in its administration. You are authorized to bring this subject to the attention of the Prussian government, and to ask its favorable action in relation to it.

But the principal subject of complaint on the part of the United States, growing out of the treaty, results from the power assumed by the Prussian government to compel the performance of military service in cases which, in the opinion of this government, are not justified by that instrument. Prussia does not hold to the doctrine of perpetual allegiance, but recognizes the right of her native-born citizens to expatriate themselves and to form new political ties in a new country. And whatever may have been the conflicting views entertained on this subject in former times, it is believed that this right is now generally acquiesced in by all the leading nations of the earth. Practically, at least, it is not likely that the doctrine of perpetual allegiance will ever hereafter be insisted on. In this age of the world, the idea of controlling the citizen in the choice of a home, and binding him by the tie of a mere political theory to inhabit for his lifetime a country which he constantly desires to leave, can hardly be entertained by any government whatever. All, probably, that can be expected or obtained, in this respect, from citizens or subjects who wish to emigrate, is, that, before emigrating, they shall discharge faithfully the duties, whether past or present, which they owe to the country of their birth. This being done, they are free, doubtless, to find a new home in whatever portion of the world they may choose to live.

In recognizing this doctrine, as she is understood to do, Prussia places herself fully in accord with the spirit of the age, and with what will doubtless hereafter be regarded as the settled law of the world. Preliminary, however, to the exercise of the right of expatriation in Prussia, it appears by the information furnished by Baron Manteuffel that the permission of the government is required, and that the violation of this law is punishable by fine and imprisonment. It is not known whether this law is stringently enforced, or how far it is restrained in its application by considerations of age or condition, but it is not easy to reconcile its existence with a full admission of the right of expatriation. When a native Prussian leaves his country even without permission, and becomes a naturalized citizen of the United States, can it be reasonably contended that he is liable to punishment, should he return to Prussia, merely because he so left? This would be to hold that he could be justly punished for having exercised an acknowledged right. It is indispensable that he should leave Prussia before he can find a new home elsewhere, and to punish him for his departure is to punish him for changing his home. If this doctrine is maintained, it is easy to see how often and painfully two great nations may be brought in conflict with regard to their respective rights and duties in the case of a subject of the one who has become a naturalized citizen of the other. Such a person returns to the land of his birth, for example, claiming no protection in his original character as a native of the country, but relying on the government of his new home to see that he is not injured himself while he does wrong to no one else. What is the duty towards him of this new government? Shall it permit him to be placed in prison or otherwise punished without any attempt whatever for his protection? Especially, shall it do this when there is a treaty in full force between the two countries, which provides that the citizens or subjects of either shall be allowed to visit and reside in the territories of the other? These questions indicate very clearly in what way a collision of duty and authority might frequently arise

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among nations, if the act of expatriation is to be regarded as a grave offence and punishable by fine and imprisonment. I am persuaded that the enlightened government of Prussia will not fail to appreciate this difficulty, and that your representations on the subject will not, therefore, be without effect.

In respect to the claim of military service, which is regarded by the states of Germany as of great importance, a manifest distinction is to be made between actual deserters from the army and the withdrawal from the country of persons who have not yet been drafted into service. The former are undoubtedly under obligations to perform their military duty whenever they return to their native state. But the mere contingency that he may be called into service cannot place the citizen or subject under the same obligation. The principle of compulsory military service exists in the United States, and all their citizens able to bear arms may be called out, if required, to defend the republic. But this liability, which exists till destroyed by physical disability, and becomes an active duty when called for by the state of the country, interferes with no man's right to travel at home or abroad, or to become a member of some other political community, and the same considerations apply to all the duties which men are required to perform under all governments, such as serving upon juries where juries make part of the judicial system, the holding of civil offices where the law imposes this duty, and various other kinds of obligatory service which the necessities of society require, and which from time to time during life must be performed. If the future liability to do military duty creates a perpetual obligation wherever the party may be, and whatever other responsibilities he may have incurred, the same principle will enable a government to prevent its subjects or citizens from ever leaving its dominions or changing their home. It would be a practical denial of all right of expatriation and a full assertion of the doctrine of perpetual allegiance.

In stating these views I must not be understood as desiring to limit in any manner the jurisdiction of Prussia within its own territories, or to contest in the slightest degree its full control over its own municipal legislation. I appeal only to the express language of our treaty and to those principles and that policy which are approved by Prussia herself.

So far as two of the points mentioned in your despatch of the 18th of January are concerned, it is not supposed that there would be any serious difference of opinion between Prussia and the United States. I cannot believe that the claim of military duty will be insisted upon as against an American citizen who left Germany before the age when he became liable to military duty. Since the class of those who leave without permission after the age of liability, but before they have actually been called into service, cannot be a large one, it is hoped that a liberal disposition on the part of the two governments in respect to the few persons of the class who may desire to return to Prussia will prevent the occurrence of any practical disagreement between Prussia and the United States.

Under our treaty with Prussia there can be no doubt that American citizens who owe no service to Prussia, and have broken no Prussian, law have a right to visit and reside in Prussian territories without being in any way molested by the government. And if they are charged with any offence it seems only reasonable that their trial should be surrounded with all the usual safeguards of a court of justice, or if, under any circumstances, their cases should require, in the opinion of the Prussian government, a summary examination, this government surely ought to be supplied with copies of the papers on which the proceeding was founded and the reasons which led to its result. While Prussia has a perfect right to proceed against persons found within its jurisdiction, the government of those persons has an equal right to inquire whether the proceeding was reasonable and the result which was reached just.

In discussing this subject with the Prussian government you will bear in

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mind its difficulties, and will aim to procure a modification of the existing system by an appeal to the justice and intelligence of the Prussian authorities rather than by a premptory demand which might be calculated to defeat its own object.

I am, sir, your obedient servant,

LEWIS CASS.

JOSEPH A. WRIGHT, *&c., &c., Berlin.*

Mr. Wright to Mr. Cass.

[Extract.]

No. 120.] LEGATION OF THE UNITED STATES,
Berlin, March 14, 1860.

SIR: * * * It will be most difficult to obtain from the prince regent a full surrender of the claim for military service upon our adopted citizens on their return to Prussia. The ministry affect to believe that if they acknowledge our view of this subject a great many of their young men would seek our country to avoid military duty. I do not believe that they or it will give us much trouble. The claim is a pretension which is extremely annoying to us and of little use to them. There are at this time a great many American citizens in Prussia, who, according to the Prussian view of this subject, are liable to military duty; and yet I do not know of one of whom military duty is claimed. * * * *

I have the honor to be, very respectfully, your obedient servant,

JOSEPH A. WRIGHT.

Hon. LEWIS CASS,
Secretary of War.

Mr. Judd to Mr. Seward.

[Extract.]

No. 114.] UNITED STATES LEGATION,
Berlin, August 7, 1860.

SIR: Enclosed I send you a copy of a communication addressed to the government of Prussia, asking the release of Wilhelm Schweitzer, a former Prussian subject, but now a citizen of the United States, from imprisonment for not having complied with some provisions of the military laws of Prussia. The communication will explain the facts to you without recapitulation here. * * * *

I am, sir, your obedient servant,

N. B. JUDD.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Mr. Judd to Count Bismarck.

LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, August 1, 1865.

SIR: The undersigned has the honor to bring to the attention of his excellency M. de Bismarck, minister of foreign affairs, the case of William Schweitzer, a naturalized citizen of the United States of America, and to solicit in his behalf his Majesty's generous pardon.

William Schweitzer is a native of the town of Neunkirchen, Regierungs, Be-

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zirk, Arnsberg, where he was born May 7, 1830. After having served three years, commencing with the year 1851, in the first company of the thirty-first infantry regiment, at the time of his service stationed at Mayence, and having been honorably discharged from active service, he, in the month of April, 1855, emigrated to the United States of America, where he settled in the county of Schuylkill, in the State of Pennsylvania, and in 1860 was duly naturalized a citizen of the United States. He is now married, and engaged in trade as a blacksmith.

Having lately contracted a lung disease, he consulted a physician, and a sea voyage was prescribed to him as the best means of restoring his health. Schweitzer thereupon, accompanied by his wife, took passage on board the steamer Hansa, sailing from New York to Bremen in the month of June last. After arriving at Bremen, and having arranged to return from there to New York in the steamer America, on the 29th of July last, by paying part of the passage money in advance, he concluded to pay a short visit to his relatives and friends in Neunkirchen. He remained there unmolested for several weeks, and was about to depart again, when he was arrested and handed over to the military authorities to expiate some punishment that had been decreed against him during his absence; and which, as the undersigned is led to believe, is to consist of a fine and imprisonment. By order of the military authorities, he was conducted to Düsseldorf, but the state of [his] health being extremely feeble, by the direction of the military physician he was placed in the military hospital there, where, at this time, he still remains.

The wife of Schweitzer, in her distress and anxiety, has come from Düsseldorf to Berlin to solicit the aid and assistance of the undersigned in obtaining the release of her sick and feeble husband. The case really appears one of great hardship, and deserving of an immediate and favorable consideration by his Majesty's government. As the undersigned is informed, a full record of the case has been made up by the judge advocate, Spannagel, at Düsseldorf, and is now in possession of the royal ministry of war; he too recommends clemency, and the release of Schweitzer, for whose life serious fears are entertained if he should be subjected to prolonged imprisonment. In consideration thereof, and of the fact that he has honorably served three years in the royal army before he left Prussia, and that his health renders him wholly unfit for any duties as a soldier, the undersigned, on behalf of his government, prays that his Majesty the King may deign to pardon him and order his release from imprisonment, so as to enable him at once to return to his home in Pennsylvania. Should an immediate release be impracticable, the undersigned requests Schweitzer may be temporarily released on bail, until his case can receive the necessary investigation, and a decision be arrived at, so that in his illness he may have the care and attention of his wife.

The undersigned cannot but feel persuaded that his request will be granted; and, looking forward to an early and favorable answer, he avails himself of the occasion to renew to his excellency the assurance of his distinguished consideration.

N. B. JUDD.

Count BISMARCK.

Mr. Butler to Mr. Cass.

[Extract.]

No. 2.] LEGATION OF THE UNITED STATES,
Berlin, August 16, 1860.

SIR: * * * * * * * *

I have the honor to enclose herewith a copy of, and to report for your sanction, my note of this morning to the Prussian minister for foreign affairs, in reference to the case of Joseph William Wolfram.

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Upon the receipt of an imperfect note from Wolfram, announcing his enrolment into the Prussian army, I left Berlin immediately for the fortified town of Cüstrin, where I saw Wolfram wearing the Prussian uniform; found him in a very depressed state of spirits, and heard from his own lips a statement of the facts contained in the annexed note.

I have the honor to be, very respectfully, your obedient servant,

E. G. W. BUTLER, JR.

Hon. LEWIS CASS,
Secretary of State.

Mr. Butler to Baron Schleinitz.

LEGATION OF THE UNITED STATES,
Berlin, August 16, 1860.

MONSIEUR LE BARON: The undersigned, chargé d' affaires *pro tempore* of the United States, regrets exceedingly that already, only five days after being received by your excellency as the guardian *pro tempore* of the United States near the court of Berlin, he should be compelled to call your immediate attention to a most aggravated violation of the rights of a citizen of the United States.

In the month of April, 1853, a subject of the King of Prussia, Joseph William Wolfram, aged eighteen years, received from the proper authorities in the neighborhood of the home of his birth, viz., the vicinity of Filchne, in the district of Garnikan, Prussia, a pass-card, such as would enable him to reach the city of Bremen, from whence he sailed in the month and year above named for the city of New York, in the United States, for the purpose of joining his father, then in feeble health, who had established himself in the United States some time before. The undersigned will here state, for the purpose of giving your excellency a perfect understanding of his case, that Wolfram had never received at said time admonition from the authorities of Prussia, high or low, that he owed service, either civil or military, to its Crown; and that being aware that it was not necessary to possess a passport in travelling to the United States via Bremen, he did not delay his urgent departure long enough to obtain a regular permit of emigration from the government of Prussia. Wolfram, having inhabited the State of Ohio, one of the United States, during five consecutive years after he had declared therein his intention to become a citizen of the United States, in the month of May of the present year took out regularly his naturalization papers, and with these he obtained immediately his passport as a citizen of the United States, signed by the Hon. Lewis Cass, Secretary of State. Learning from his relatives in Prussia that he had inherited some property in their neighborhood, and that the sum of fifty thalers had been extorted from said property in satisfaction of the legal penalty prescribed against the offence which he had innocently committed in quitting Prussia without a passport, Wolfram left the United States in July last, in the panoply of his American passport, to look after his interests in Prussia. Arrived in the district of Garnikan, he presented himself voluntarily before a neighboring magistrate for the purpose of inquiring whether the anxiety of certain relatives as to his liability to render military service was well founded, and with the view of making known to said authorities that he considered such a demand impossible since he was clothed with the sacred garb of American citizenship. Having acted in an honorable manner, Wolfram remained passive until the 10th instant, when he was summoned peremptorily to report himself for military service at Cüstrin, near Frankfort-on-the-Oder, where, upon his arrival, a uniform was placed upon him by force, and he was enrolled in the ninth company of the fusileer battalion of the fifth Brandenburg infantry regiment, number forty-eight.

The undersigned is aware the Prussian government asserts the right to exact

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military service of every Prussian-born subject at some time or other, but the undersigned does not doubt that your excellency is aware that the government of the United States, when expounding the right of expatriation a year since, proclaimed to the world that it was resolved to protect from foreign military service every naturalized citizen of the United States who emigrated from the land of his birth in his youth, and before he was subjected to the demand for military service; therefore, the undersigned prays your excellency, who, through the extreme civilities of official intercourse, understands so well how to preserve the present amicable relations of Prussia, to give this case your earnest and immediate attention, confident that you will not permit either the usual dilatory course in these matters or the demands of private life to obstruct a speedy and candid atonement for the violation of the personal liberty of an American citizen.

Surely your excellency will perceive the propriety of making the most prompt explanations in person to his royal highness the Prince Regent, in order to prevent a derangement of those very amicable relations which, commencing with Washington and Frederick the Great, have been happily preserved by their successors.

The undersigned seizes this occasion, with great pleasure, to assure your excellency of his most distinguished consideration.

E. G. W. BUTLER, Jr.

His Excellency Le Baron de Schleinitz,
Minister for Foreign Affairs.

Mr. Butler to Mr. Cass.

[Extract.]

No. 3.] Legation of the United States,
Berlin, August 17, 1860.

Sir: Though my despatch No. 2 was sent only yesterday, I consider it my duty to forward immediately a copy of my note of this morning to the minister of foreign affairs in the case of Marcus Lissner. It is astonishing that two such grievous cases should occur at the same time. I imagine that they result from the preparations for war which this kingdom is now making, since war may result from the laudable efforts which are now being made to form a united Italy.

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I have the honor to be, very respectfully, your obedient servant,

E. G. W. BUTLER, Jr.

Hon. Lewis Cass,
Secretary of State.

Mr. Butler to Baron de Schleinitz.

Legation of the United States,
Berlin, August 17, 1860.

Monsieur le Baron: The undersigned, chargé d'affaires *pro tem.* of the United States, having had the honor to state to your excellency, through a communication dated yesterday, the 16th instant, his views concerning the imprisonment into the Prussian army of Joseph Wolfram, a naturalized citizen of the United States, will not detain your attention long in presenting the nearly similar case of Marcus Lissner.

Marcus Lissner left Prussia, the land of his birth, at sixteen years of age, for the United States; where, five years after recording his declaration of intention

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to become a citizen of the United States, he took out his naturalization papers, and subsequently a passport from the State Department at Washington city.

Many years afterwards, in the month of July of the present year, being in bad health, he has visited temporarily the town of his birth, viz. Neustadt, on the Warthe, in Prussia. Only a few days arrived, he has received an official summons to report himself at the headquarters of the second battalion of the second Posen Landwehr regiment, in the town of Schrimur; is now fearing military arrest at any moment; and has been warned not to leave the limits of the above named town.

Informed that Marcus Lissner has already in terror taken an oath to serve faithfully the crown of Prussia, the undersigned desires to express here his astonishment that the authorities of this great kingdom should consent to resort for its maintenance to the services of a soldier who has taken antagonistic oaths, and to express the hope that when Marcus Lissner shall owe again his liberty to the protection of the American flag, he will comprehend more fully the meaning of the proud exclamation, "I am an American citizen."

The undersigned hastens to demand that your excellency will take immediate measures to prevent the outrage which would be enacted by the contemplated arrest of Marcus Lissner, and thereby avoid a serious derangement of the felicitous relations which the undersigned, upon his advent to his present authority, has found existing between the liberal constitutional monarchy of Germany and the great republic.

The undersigned seizes with avidity his right to confide the adjustment of so delicate a matter to the amiable disposition and renowned diplomatic experience of your excellency, to whom he begs to renew the assurances of his most distinguished consideration.

E. G. W. BUTLER, Jr.

His Excellency Le Baron de Schleinitz,
Minister for Foreign Affairs, &c., &c., &c.

Mr. Butler to Mr. Cass.

[Extract.]

No. 4.] Legation of the United States,
Berlin, August 20, 1860.

Sir: Since the morning of the 16th I have been having two or three conferences daily with M. de Gruner, the acting minister for foreign affairs in the absence of Baron de Schleinitz. M. de Gruner states constantly that I may rest assured that the cases of Wolfram and Lissner will be amicably adjusted.

I have the honor to forward herewith a copy of a note dated yesterday, and addressed to M. de Gruner, in reference to Marcus Lissner. I have reason to hope for the gratification of said request. * * * *

I have the honor to be, very respectfully, your obedient servant,

E. G. W. BUTLER, Jr.

Hon. Lewis Cass, *Secretary of State.*

Mr. Butler to Monsieur de Gruner.

Legation of the United States,
Berlin, August 19, 1860.

Monsieur de Gruner: Since I had the honor of conversing with you last evening, I have been informed that Marcus Lissner has been ordered to assume

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the Prussian uniform to-day at Schrimun. Therefore, I pray you to take the necessary steps, during the absence of his excellency the minister for foreign affairs, to prevent so great a wrong.

Please receive assurances of my very distinguished consideration.

E. G. W. BUTLER, JR.

Monsieur DE GRUNER,
Under Secretary of State, &c., &c., &c.

Mr. Butler to Mr. Cass.

LEGATION OF THE UNITED STATES,
Berlin, September 15, 1860.

HONORED SIR: You are familiar, no doubt, with the case of Joseph William Wolfram, a naturalized citizen of the United States, now serving in the Prussian army, through my despatch No. 2, dated August 16, 1860.

When visiting Wolfram at the fortified town of Cüstren, I became so much interested in his case, because he seemed to grieve his present condition, and because he promised to take my advice, and to refuse, at the penalty of severe punishment, to swear upon the flag of Prussia to support its crown, that I resolved to show him my appreciation of his conduct in refusing to take so improper an oath as Lissner (the other American citizen now in the same position) has taken, by making earnest personal exertions to have him released from the Prussian army.

Consequently I sent my servant on Sunday last, in charge of my horse, prior to my departure, to take an apartment for me in the town of Furstenwald, during the five days' manœuvres of the 25,000 troops composing the body guard of the sovereign of Prussia, in order that I might have frequent opportunities of being thrown in contact with the prince regent, who I knew was to command there in person, and thereby have an opportunity to request the release of Wolfram.

An opportunity being presented, I said to the prince regent, that when acting as chargé d'affaires *pro tem.* of the United States, recently, I had (as I had a right to do) demanded the release of Wolfram, but that, tired of awaiting a reply to my demand, I desired "as a private citizen" to ask verbally Wolfram's immediate release.

Your excellency will not be surprised to hear that their royal highness the prince regent and (his brother) prince Charles should have perceived that a member of the Butler family displays some military taste. They were so much pleased at my constant and earnest pursuit of the said manœuvres, that they frequently conversed with me in a confidential manner at considerable length. The prince regent said to me that he was endeavoring during this summer to have conferences with the sovereigns of all the "great powers," that he may maintain peace, if possible, but that he had now returned home to prepare his battalions for war, because he fears very much that he shall be forced to require their services before long.

Arriving with the prince regent at the summit of a hill which overlooked the entire forces engaged in the sham battle of the third day, at the moment when he was expressing his delight at a charge of heavy cavalry under the command of his son, Prince Frederick William, I said, "with the permission of your royal highness, I will say, that he who commands 180,000 such soldiers does not need the forced military services of an American naturalized citizen, and that it seems to me that the present moment is a most appropriate one for you to apply the noble sentiment of ex-President Pierce, "the hour of triumph should be the hour of magnanimity;" and to say for Wolfram, with whose case I have already made you familiar, "grace."

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My appeal had a good effect, for the prince regent called upon an adjutant and directed that a report of the case of Wolfram should be made to him, in person, as soon as possible; and turning to me said, "Remain content; the pardon shall be granted, if possible, as a personal favor to you, Mr. Butler."

I have the honor to be, very respectfully, your obedient servant,

E. G. W. BUTLER, JR.

Hon. LEWIS CASS, *Secretary of State.*

Mr. Wright to Mr. Cass.

[Extract.]

No. 145.] LEGATION OF THE UNITED STATES,
Berlin, September 26, 1860.

SIR: I have had two interviews with the minister of foreign affairs, who has returned to Berlin. He promises prompt investigations and answers in the cases of Wolfram, Lissner, and Evens. * * * * *

I fear now that the ministry here, influenced by the belief entertained by the prince regent, that frequent pardons for the benefit of persons similarly situated to Wolfram and Lissner, encourage emigration from this country, have become less favorable to our claims. This vexed question cannot be settled, in my opinion, without certain treaty stipulations.

I suggest, respectfully, that this subject shall receive the attention of the President in his next annual message. It is the only document which receives proper consideration in Germany, and which is published generally in the newspapers.

I am disappointed in not having received as yet an official note from the consul at Munich, in relation to the cases pending with the Bavarian government. Having placed in the hands of its minister for foreign affairs, while at Munich, my printed copy of the correspondence in reference to the claims of Prussia for military service, I beg to receive several additional copies.

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I have the honor to be, very respectfully, your obedient servant,

JOSEPH A. WRIGHT.

Hon. LEWIS CASS, *Secretary of State.*

Mr. Wright to Mr. Cass.

[Extract.]

No. 147.] LEGATION OF THE UNITED STATES,
Berlin, October 13, 1860.

SIR: * * * * * *

The cases of Wolfram and Lissner have been nearly two months before the Prussian government, and yet it makes no reply. I have called the attention of Baron de Schleinitz repeatedly to the great impropriety of claiming military service in these cases, and to the importance of a speedy decision thereof, and have as often received assurances that both cases should receive prompt investigations and replies. If these cases are not decided soon I shall deem it consistent with my duty to regard their postponement as equivalent to the intention to refuse the granting of our rights, and shall act accordingly.

* * * * * *

I desire information as to the following case: A left Prussia ten years since

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for the United States, leaving here B, a son eleven years of age, who has resided constantly in Prussia; A has resided in the United States, and is now a citizen thereof; B will be 21 years of age in December next; has not yet been called upon to perform military service, and yet cannot procure from the Prussian government a permit of emigration, though he desires to go to A in the United States. B now seeks protection from this legation. Is he entitled to a passport? If not, has he any claim upon our government?

This case is somewhat similar to that of George Edmond Sabatt, mentioned in my despatch No. 52. In Sabatt's case a passport was issued, and having received no comments thereupon, I presume the action taken was approved. In the Sabatt case the son was born in the United States, but the father and son lived abroad, and the father was not a citizen of the United States.

I have the honor to be, very respectfully, your obedient servant,

JOSEPH A. WRIGHT.

Hon. LEWIS CASS, *Secretary of State.*

Mr. Wright to Mr. Cass.

[Extract.]

No. 151.] LEGATION OF THE UNITED STATES,
Berlin, November 10, 1860.

SIR: I have the honor to forward herewith a copy of the note from the minister of foreign affairs in the case of Wolfram. Also of my note urging attention to Mr. Butler's demands in behalf of Wolfram and Lissner. The prince regent has ordered the discharge of Wolfram.

I hope in a few days to receive a decision in the case of Marcus Lissner. If it is true, as alleged, that Lissner has taken an oath to serve the Crown of Prussia, I conceive that he has no claim upon the government of the United States for protection, unless fraud or duress was used in obtaining the same.

While awaiting instructions in reply to my despatch, No. 141, dated August 29, 1860, I shall not reply to the despatch of the minister of foreign affairs in the case of Wolfram.

The United States cannot countenance the suggestion of Baron Schleinitz, which forbids the naturalization of foreigners in the United States who cannot furnish a "permit" from the country of their birth at the time of their application for naturalization.

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I have the honor to be, very respectfully, your obedient servant,

JOSEPH A. WRIGHT.

Hon. LEWIS CASS, *Secretary of State.*

Mr. Wright to Baron de Schleinitz.

LEGATION OF THE UNITED STATES,
Berlin, October 16, 1860.

MONSIEUR LE BARON: The undersigned desires to direct your excellency's attention to the demands for the discharge of Wolfram and Lissner, two naturalized citizens of the United States, which have been made two months since by Mr. Butler, in order that they may be released as soon as possible, and permitted to return to their adopted country.

The undersigned now places before your excellency a copy, in English, together with one in French, of a despatch from the government of the United States, in

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reference to the arrest, for military service, of Christian Ernst, by the government of Hanover. Accompanying these will be found copies of a judgment of a French court, and a part of certain correspondence between the French government and the minister of the United States at Paris, relative to an adopted American citizen named Puyoon, from which it will be seen that the French government, in conformity with its laws, has ordered the prompt discharge of said person.

The example of the prompt action of the Hanoverian and Oldenburg governments, in discharging persons similarly situated, stimulated by the good understanding existing between his Majesty's government and the government of the United States, induces the undersigned to expect the immediate release of the above-named citizens, Wolfram and Lissner.

The undersigned takes this occasion to renew to your excellency the assurance of his highest consideration.

J. A. WRIGHT,

His Excellency LE BARON DE SCHLEINITZ,
Minister of Foreign Affairs.

Baron Schleinitz to Mr. Wright.

[Translation.]

BERLIN, *November 5*, 1860.

SIR: I received the letter which you did me the honor to address to me on the 16th ultimo, to remind me of the affair of Mr. Joseph William Wolfram, naturalized citizen of the United States, to which the memorial of Mr. Butler, of the 16th of August last, had relation.

Inquiries having been made, while the incorporation of Mr. Wolfram in the Prussian army was pending, it has been proven that it was in nowise contrary to his desire that this individual was placed under its banners. Here is a statement of the facts: Born the 16th December, 1835, in the house of a manufacturer of paper, near Filehene, a town in the grand dutchy of Posen. Mr. Wolfram, without asking for a permit of emigration, left the dominions of the king, after the age of 18, to follow his father, who had settled in America. During the twenty years of his residence in the State of Ohio, where he obtained letters of naturalization, he was prosecuted in his native country for having emigrated without authorization from his government, and for having evaded serving in the army, for which he should have presented himself voluntarily in 1855. The court sentenced him, in default, to a fine of fifty crowns, or imprisonment for four weeks. In the month of June, of the present year, Mr. Wolfram returned to Prussia, provided with a passport from the Secretary of State of the United States, presented himself, of his own accord, to the provincial counsellor of the circle of Amswade, and declared to it that he had returned from America to discharge his military obligations, and was ready to enter the service. A correspondence having then taken place between this functionary and the provincial counsellor of the circle of Czarnikan, for the purpose of establishing the last domicile of the said Wolfram, he was enrolled in 5th infantry regiment of Brundeburg, No. 48. Even if Mr. Wolfram had not presented himself spontaneously to fulfil his obligations, his enrolment in the army would not have been any the less in conformity to the legislation of the country. Wolfram had not caused himself to be formally released from the ties which attached him to Prussia; he was in nowise authorized to evade at will the duties imposed upon him in his quality of subject of Prussia; notably, also, that of service in the army, by causing himself to be naturalized in the United States.

The passport, which the competent American authority issued to him as a

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citizen of the United States, will not, moreover, save him from his enrolment, seeing that in Prussia he had not ceased to be a Prussian subject.

Although, in these circumstances, there existed no reason for the Prussian government to release Mr. Wolfram before he had served his time, and that the protest of the legation of the United States against his enrolment was not founded in right, his royal highness the prince regent, to give to the government of the United States a fresh proof of his desire to gratify, in so far as the laws permit him to do, has, nevertheless, deigned to grant Mr. Wolfram his discharge.

The order of the cabinet, signed by his royal highness, and dated Warsaw, October 25, has already been communicated to the minister of war, so that the individual in question will be immediately freed.

The affair of Mr. Wolfram being settled, the Prussian government fully accords in opinion with that of the United States, that it would be very desirable that contests of this nature shoud be avoided in future—contests, the cause of which must be sought in the entirely differing points of view of the legislation of the two countries in regard to nationality and military obligations. They could be avoided, at least in part, if the government of the United States pleases to take note of the condition of the Prussian legislation. It would then satisfy itself that this legislation in nowise hinders emigration to other countries, and does not even attach to it onerous conditions; that consequently Prussian subjects who procure naturalization in America, without regard to these conditions, must charge themselves, and not the legislation of their native country, with the vexative results which fall upon them.

Liberty of emigration has existed from all time in Prussia. It was proclaimed in 1794 by the civil code; defined by the ordinance of 15th September, 1818, to put it in accordance with the new military legislation; sanctioned in this form by the law of 31st December, 1842, relative to the mode by which the quality of a Prussian subject is acquired and lost—a law of which I have the honor to transmit you a copy in this enclosure. The constitutional charter of Prussia of 31st January, 1850, stipulates expressly, in the 2d article, that the liberty of emigration cannot be restricted by the government except by the relation to the obligation to render military service. In Prussia every young man is obliged to serve in the active army; afterwards he forms part, for a series of years, of the landwehr, which, with the exceptions of some temporary service of short duration, is not called under the flag unless in time of war. Service by substitutes is not allowed either in the active force or in the landwehr. Every Prussian must serve in person. The fulfilment of military duty does not depend upon a call made by a competent authority. It is founded in law itself. Every Prussian subject who has attained the age of twenty years is obliged to present himself without any preliminary summons to the commission for the recruitment of the army. In conformity with these regulations, the law of 31st December, 1842, does not oppose emigration except in regard to persons who still belong to the active army, or those who serve as officers of the landwehr, and have full and entire liberty to emigrate so long as that force is not mustered under the banner. A certain limitation occurs only in respect to young men between 17 and 25 years of age. They are obliged, first, to produce a certificate from the commission of recruitment of the army, testifying that it is not for the purpose of evading their military obligations that they purpose to emigrate. Whoever comes to the resolution to expatriate himself, should first ask to be released from the ties which attach him to his native land. Permission to emigrate cannot be refused in time of peace, except for the reason above mentioned. Whoever obtains such permission is exempt from every duty towards Prussia; consequently from all obligation to serve in the army. The permit of emigration obtained by the father of a family avails also for the minor children still under parental control, unless exception may have been

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taken expressly in regard to them. It follows that the only case excepted is where the military service has not yet been rendered. No one is forbidden to renounce his quality of a Prussian subject and procure himself to be naturalized anywhere else without being held to fulfil again any duty whatever toward his original country.

If, therefore, a Prussian become a citizen of the United States after having proved by his permit of emigration that he is no longer a subject of the King, neither he nor his male children can ever be constrained again to render military service in Prussia. Therefore, the government of the United States, by requiring that every Prussian who asks for letters of naturalization should then produce a permit of emigration, would thereby avoid any fresh contests. On the other side, every Prussian who quits his native land without having asked for and obtained a permit of emigration remains a Prussian subject, so that he and his sons are obliged to serve in the army. If for this purpose they do not present themselves in seasonable time, they are condemned by default in a fine; in case of insolvency, to imprisonment. The payment of the fine does not dispense them, nevertheless, from the obligation to do the military duty so soon as they return to Prussia. It is only in respect of the last individual that any contest can yet arise between the two governments. The Prussian is far from wishing to contest with that of the United States the right of fixing, as seems good to it, the condition of a naturalized foreigner in America; but, on the other hand, the latter government can no more exact that Prussian legislation should regulate itself by that of the United States, than that American legislation should extend its effects beyond the Union and even into the dominions of the King.

In Prussia, Prussian law alone avails; and the King's government ought to claim the same right which it recognizes in that of the United States—that of determining by a law who should or not be regarded as a Prussian subject, and cause such laws to be enforced throughout the extent of the kingdom, without regard to what the legislation of other countries may provide on the same subject in the respect. These principles are already, in part, recognized by the American government. It admits that when a Prussian subject, whether a deserter or a refractory, becomes a citizen of the United States, he has no room to complain if, on his return to Prussia, he should be enrolled under the flag. It acknowledges that such an individual cannot claim in his quality of American citizen to be protected by the government of the United States from his enrolment in the ranks of the Prussian army. But it maintains that in every other case the Prussian government has not the right to impose military service on a citizen of the United States. But in reasoning thus the American government does not take into account the circumstances that every Prussian subject is already by law required to do military service, and that consequently one who has reached the age of twenty years is by this very fact called upon to enroll himself under the flag. Besides, the King's government cannot admit that when a Prussian subject, contrary to the laws of his country, causes himself to be naturalized elsewhere, by declaring that he renounces his former country, such individual can exempt himself thus, in a one-sided way, and of his own motion, from his duties towards his native land. If, then, he should spontaneously return to Prussia and within the sphere of Prussian law, he can blame himself only when this law is applied to him. The undersigned desires to persuade himself that the government of the United States will not misapprehend the justness of these remarks.

Moreover, the King's government never having acted with severity in the application of the law, and always giving weight to circumstances, does not doubt of arriving at arrangements satisfactory to both countries of the contests which may still arise. Finally, I believe it to be my duty to ask you, sir, to remark that if your government refers in this matter to judgments pronounced by the

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French courts, such proof is not conclusive, because by the terms of Prussian legislation the question of determining if an individual be a Prussian subject or not is not decided by the courts, but by the administrative authorities.

Reserving to myself to recur to the reclamation of the person named Marcus Lissner, I have the honor to offer you, sir, the assurance of my highest consideration.

SCHLEINITZ.

MR. WRIGHT, *U. S. Minister, &c., &c.*

Mr. Wright to Mr. Cass.

No. 154.] LEGATION OF THE UNITED STATES,
Berlin, December 1, 1860.

SIR: I have the honor to forward herewith a copy of the communication from the Prussian government, in reply to the notes of Mr. Butler in the case of Marcus Lissner. As intimated in a former despatch, Lissner is discharged from the Prussian army. If the statements made by said communication, addressed to the undersigned, are true, the conduct of Lissner in not insisting upon his rights as an American citizen immediately upon his arrest is most reprehensible; as is also his neglect in not communicating to this legation the fact of his discharge being granted in September last. While expecting instructions from the department in reply to certain despatches of mine, I shall not answer the accompanying communication from the minister of foreign affairs in reference to the "vexed question" of military service.

I take pleasure in stating that at this time I know of not one case presenting any difficulty between the Prussian government and any citizen of the United States.

I have the honor to be, very respectfully, your obedient servant,

JOSEPH A. WRIGHT.

Hon. LEWIS CASS, *Secretary of State.*

[Translation.]

Baron de Schleinitz to Mr. Wright.

BERLIN, *November* 26, 1860.

SIR: The minister of war has furnished me with the information I requested of him, when I received Mr. Butler's note of the 7th of August last, in relation to Marcus Lissner, a naturalized citizen of the United States, who was put into the army on his return to Prussia, his native country, which he had quitted at the age of sixteen, without the proper authorization required by the laws.

In referring to my official communication of the 5th of this month to you, on the subject of Mr. Wolfram, I will remark that Lissner's case is exactly similar, he having gone to America without an emigrant permit, with a passport good to the 20th of March, 1855, but only allowing him to proceed to Hamburg. By settling in the United States he put himself out of military obligations to Prussia, and on his return to his native country he was naturally conscripted into the army to perform military duty. Moreover, Mr. Lissner was so convinced of the legality of the measure, that he did not even adduce his title of American citizen as a defence.

In the mean time the affair has been settled, on other grounds, to the satisfaction of the person in question. Found unfit for military duty, on the 29th of September last he got his discharge from the commander-in-chief of the 5th

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army corps, through a certificate from the army recruiting committee, and was sent to the reserve on account of feeble constitution.

If, under these circumstances, Mr. Lissner still desires to be freed formally from any duties to Prussia, there is nothing in his military obligations to prevent him from obtaining an emigration permit from the proper provincial authorities.

Accept the repeated assurance of my high regard.

SCHLEINITZ.

Mr. WRIGHT, *Minister Plenipotentiary, &c.*

Mr. Wright to Mr. Black.

[Extract.]

No. 162.] UNITED STATES LEGATION,
Berlin, February 16, 1861.

SIR: * * * The action of the Prussian government, through its police, towards our adopted citizens, with reference to military duty, is becoming very annoying. Several arrests have taken place lately, and active exertions are being made to collect fines heretofore assessed against others.

Andrew Hagen, a citizen of Indiana, was arrested three days since on his return to adjust the affairs of his late father's estate. I promptly made a demand for his release. In addition to the fact that Mr. Hagen has a family in America, where the business in which he is engaged requires his presence as soon as possible, he is an officer of the federal government, being postmaster at Walpole, Hancock county, Indiana. For these reasons I have made an urgent demand for his release. I shall advise the government of the result of the case

* * * * * * *

About the time of my arrival at Berlin, John Statz was released from the army, having served out the whole term of three years whilst my predecessor was here. Since I have been here every individual has been discharged, not only in Prussia, but also in Oldenburg and Hanover, and I shall not be disposed to remain at this port with American citizens serving in the Prussian army.

* * * * * * *

I have the honor to be, most respectfully, your very obedient servant,

JOSEPH A. WRIGHT.

His Excellency Hon. J. S. BLACK,
Secretary of State, Washington, D. C., U. S. A.

Mr. Wright to Mr. Black.

[Extract.]

No. 163.] UNITED STATES LEGATION,
Berlin, February 20, 1861.

SIR: I herewith transmit copies of two despatches addressed to the minister of foreigh affairs, Baron von Schleinitz, with reference to the case of Andrew Hagen, and the reply to the same. In my anxiety to secure the release of A. Hagen, and in my excitement growing out of the interest I feel in this case, I have deemed it expedient not to reply formally as yet to the despatch of Baron von Schleinitz, but I have had two personal interviews with him, having just returned from one at this moment. I hope to be able to communicate something

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satisfactory on this matter in a few days, as an interview, with reference to this case is arranged to take place to-day, at three o'clock, p. m., between the ministers of foreign affairs and of war.

* * * * * * * * *

Your obedient servant,

JOSEPH A. WRIGHT.

Hon. J. S. BLACK,
Secretary of State, Washington, D. C.

Mr. Wright to Baron Schleinitz.

LEGATION OF THE UNITED STATES,
Berlin, February 12, 1861.

MONSIEUR LE BARON: The undersigned has the honor to enclose to your excellency the petition of Andrew Hagen, a citizen of the United States, praying the remission of a fine assessed against him for non-performance of military service. Mr. Hagen is a citizen of the United States, and his place of residence is in Indiana, near that of the undersigned, to whom he is personally known as a worthy citizen, having an interesting family in America. Mr. Hagen is now on a visit to the family of his father, who deceased only a few months since.

The undersigned, having received this petition, has just learned by telegraph, with the deepest regret, that Mr. Hagen has been pressed into the army of his Majesty at Nerdhausen, in Prussia. It appears that Mr. Hagen left Prussia when a minor; and if he had at that time no permit of emigration, it was because he did not know the necessity of the same.

It is not necessary for the undersigned to inform your excellency that the news of the arrest of Mr. Hagen, under the circumstances, will be received by his government at Washington, as it has been by himself, with great surprise and the deepest regret; and it is not doubted that the government of his Majesty, in conformity with its characteristic friendly disposition towards the United States, will order the immediate discharge of Mr. Hagen. As the demands of the family of Mr. Hagen, as well as his business, render his speedy return to America most desirable, the undersigned begs your excellency's immediate attention to this case, and avails himself of this occasion to renew to your excellency the expression of his highest regard.

J. A. WRIGHT.

His Excellency BARON SCHLEINITZ, *Minister, &c., &c.*

Baron Schleinitz to Governor Wright.

[Translation.]

BERLIN, *February* 17, 1861.

The undersigned has the honor to inform Mr. Wright, United States envoy extraordinary and minister plenipotentiary, that Mr. Andrew Hagen's petition was sent to the war department on its reception, with the note of the 12th instant.

The undersigned, in accordance with Mr. Wright's request in his note of the 15th, asked the minister of war not to send Hagen to Erfurt, to complete his military service, till a final decision has been rendered in his case.

The undersigned cannot say if his request will be granted; but he can assure Mr. Wright that Hagen will not be maltreated at Erfurt. * * *

SCHLEINITZ.

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Mr. Wright to Baron Schleinitz.

UNITED STATES LEGATION,
Berlin, February 15, 1861.

MONSIEUR LE BARON: The undersigned had the honor to place before your excellency, on the 12th instant, the case of Andrew Hagen, and he now hastens to communicate the enclosed telegraphic despatch from Mr. Hagen.

Two additional circumstances, which were unknown to the undersigned himself at the moment of addressing his first communication to your excellency, induce him to hope that your excellency will accede to the request of Mr. Hagen, as contained in the accompanying despatch. These facts are, first, Mr. Andrew Hagen was not born in Prussia, but in Bavaria, and came with his father to Prussia at the age of ten years. Secondly, Mr. Andrew Hagen is an officer of the federal government of the United States, being postmaster at a city in Indiana; and it is highly important that he should return to America at the earliest moment possible, in order to discharge the duties of his office.

In bringing these additional facts to the notice of your excellency, the undersigned confidently hopes that your excellency will find ample cause for despatch in the case of Mr. Hagen, as well as in having him liberated, until the moment when his Majesty shall have decided upon the petition.

The undersigned seizes this occasion to assure your excellency of his highest consideration.

J. A. WRIGHT.

His Excellency BARON SCHLEINITZ, *Minister, &c., &c.*

Mr. Wright to Mr. Black.

No. 167.] UNITED STATES LEGATION,
Berlin, March 7, 1861.

SIR: I have the honor to communicate herewith copies of the correspondence between the minister for foreign affairs, Baron von Schleinitz, and the undersigned, with reference to the case of Andrew Hagen, already reported.

Time has confirmed me in the opinion that the only way of finally adjusting this question of military duty is by treaty, for it is manifest that the Prussian government will not change its laws on this point. With reference to the bases of such a treaty I have no additional suggestions to make to those contained in No. 93 and other of my despatches on this subject.

I am informed by Mr. Hagen that, on being arrested, he was roughly handled, closely guarded by policemen, for whose services he had to pay, as well as the cost of transport of himself to two or three places, before being eventually brought to Erfurt; his hair and beard were forcibly cut, and he was called upon to take the oath of allegiance under threat of imprisonment, while he himself was subjected to harsh treatment till the arrival of Mr. Hudson at Erfurt, as already communicated, but that he subsequently experienced better treatment. The expense to which he was put amounts to about 150 thalers.

I have not deemed it expedient to demand satisfaction of the Prussian government for the present for the treatment experienced by Mr. Hagen, as the whole question, from its bearing upon the more important one of an adjustment of all these difficulties by treaty, which such a demand would be likely to embarrass, is before the President, whose views it will be my pleasure, as well as my duty, to seek to carry out.

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I trust that the views and suggestions contained in the despatch of Baron von Schleinitz of the 5th of November, 1860, as well as in the accompanying despatch from the same, will receive prompt consideration.

I have the honor to be, very respectfully, your obedient servant,

JOSEPH A. WRIGHT.

Hon. J. S. BLACK,
Secretary of State, Washington, D. C.

Mr. Wright to Baron von Schleinitz.

[Extract.]

UNITED STATES LEGATION,
Berlin, March 6, 1861.

MONSIEUR LE BARON: The undersigned embraces the first moment of time after a personal interview with Mr. Hagen to acknowledge the receipt of your excellency's note of the 24th ultimo, communicating information of the discharge of Mr. Hagen from the Prussian army. * * * * * * This is well calculated to strengthen that long-established friendship and good will which have existed without interruption between the government of his majesty the King of Prussia and that of the United States from its organization to the present moment.

The undersigned calls your excellency's attention to the fact of the compulsory payment of 60 thalers and 20 groschen made by Mr. Hagen's mother, in his absence, to the executive officer, under the judgment rendered against Mr. Hagen. This payment was made after the granting of the pardon by his Majesty, and doubtless the officer was not aware of this fact in making this collection. It is not doubted, however, but that your excellency will take the proper steps in order to have the said money refunded to Mr. Hagen.

It will afford the undersigned great pleasure to communicate to his government the suggestion of your excellency as to the propriety of adopting some remedy for future cases arising out of this question of military duty—a question of great embarrassment and annoyance to the government of the United States, and, with all due respect, one of but little importance in its practical bearing to the government of Prussia. As heretofore suggested to your excellency, of the thousands of American citizens returning annually to the German confederacy, the place of their birth, with their liability to military service, as claimed by the legal authorities of Germany, it is believed that not one in five hundred such is disturbed or annoyed. A residence of more than three years has fully confirmed the undersigned in this opinion. The opinion and views of your excellency, as communicated to the undersigned by letter of the 5th November last, were promptly forwarded to the government of the United States, and he regrets to say that no answer has as yet been received. Your excellency's attention is respectfully called to the note of the undersigned of September last, communicating a copy of a despatch in English and French from the President of the United States, dated July 8, 1859, on the subject of the arrest of Christian Ernst, a citizen of the United States, for military service, by the Hanoverian government.

A reference to the opinion therein so fully and so clearly expressed by the President of the United States, on the subject of military duty, will at once satisfy your excellency that there is not the slightest hope for the adoption of the suggestions contained in your excellency's note of the 24th ultimo, in relation to future applications for citizenship by persons emigrating from Prussia to the United States.

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This whole subject is now before the government of the United States, and I doubt not will receive a prompt and due consideration.

The undersigned avails, &c., &c., &c.,

J. A. WRIGHT.

His Excellency Baron VON SCHLEINITZ,
Minister, &c., &c., &c., Prussia.

Baron Schleinitz to Mr. Wright.

[Translation.]

BERLIN, *February* 24, 1861.

SIR: In answer to your telegram of the 15th instant, in regard to André Hagen, I inform you that the minister of war had ordered the proper officer of the landwehr at Sangerhausen, by telegraph, to delay sending Mr. Hagen to Erfurt, but he was already on the way when the telegram was received.

The King, my august sovereign, has already decided the question, and has decreed that Hagen cannot evade the law and furnish a substitute for his military service in the Prussian army. However, in deference to the mediation of your government in favor of the petitioner, his Majesty has deigned to make an exception in this case, and orders Hagen's immediate release. The minister of war will instantly issue the proper order to the competent officer, and nothing further prevents Mr. Hagen from returning to America.

I hope you will see in this resolution another proof of courtesy from the Prussian government towards the government of the United States. But I must call your attention to my letter of the 5th of November last, in which I stated to you that the government of the King still insisted on his right to place any of his subjects in the Prussian army, after their return, though they had become citizens of the United States, provided they had left their native land without dissolving the legal ties that bind them to it.

To avoid future discussions on this subject, it is desirable for the government of the United States not to grant naturalization papers to any Prussian subject hereafter who does not exhibit an emigration pass, to show that he has ceased to be a Prussian subject.

In asking your mediation with your government in this affair, I have the honor, &c., &c.

SCHLEINITZ.

Mr. WRIGHT, *United States Envoy, &c.*

Mr. Hudson to Mr. Seward.

[Extract.]

No. 1.] LEGATION OF THE UNITED STATES,
Berlin, May 1, 1861.

SIR: You were informed by the minister, Mr. Wright, in his despatch No. 171, that he had left the legation in my charge. I have now the honor to report to the department another case of an adopted American citizen who has been notified to appear and serve in the ranks of the Prussian army. The person in question is Alexander M. Alexander, a native of Pleschen, in the province Posen, Prussia, who was admitted to citizenship, as attested by naturalization papers, on the 29th of September, 1860, in New York. * * * *

I have the honor to be, most respectfully, your very obedient servant,

E. M. HUDSON.

Hon. WILLIAM H. SEWARD,
Secretary of State.

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Mr. Hudson to Baron Schleinitz.

LEGATION OF THE UNITED STATES,
Berlin, May 1, 1861.

MONSIEUR LE BARON: The undersigned, chargé d'affaires of the United States, (par absence du minister,) has the honor to call your excellency's attention to the case of Mr. Alexander M. Alexander, a citizen of the United States, residing in the city of New York, where he is engaged in commercial affairs, who, on account of the feeble state of his health last October, was directed by his physician to repair to Europe for the purpose of availing himself of the baths in Germany. Accordingly he came at once to Europe, and on the 1st of December last, upon his arrival in Pleschen, in the province of Posen, the place of his nativity, he was taken ill, and was confined to his bed for ten weeks; and now, as he has not experienced the benefit he had expected in coming to Germany, he proposes returning to America in five or six weeks, as soon as his health shall be a little more restored, for his presence is imperatively required in New York to attend to his business, which is suffering in his absence.

On the 22d ultimo Mr. Alexander was summoned to appear before the police in Pleschen, and there notified to report himself on the 6th of May for enrolment in the Prussian army.

In demanding the release of Mr. Alexander the undersigned requests that your excellency will institute prompt measures to have him set at liberty immediately, in view of the fact that such detention may prove fatal to him in the present state of his health. The undersigned, relying upon the good understanding which has ever existed between the government of his majesty the King of Prussia and the United States, does not doubt that your excellency will give another proof, in addition to the many evidences already offered, of the desire to perpetuate these most friendly relations between the two countries.

The undersigned avails himself of this occasion to assure your excellency of his highest consideration.

E. M. HUDSON.

His Excellency BARON DE SCHLEINITZ,
Minister of Foreign Affairs.

Mr. Judd to Mr. Seward.

[Extract.]

No. 4.] LEGATION OF THE UNITED STATES,
Berlin, July 24, 1861.

SIR:

* * * * * * *

I have the honor to transmit herewith copies of correspondence between this legation and Jacob Spandan, a citizen of the United States, now in the Prussian army at Gross-Glogan. It appears that he left Prussia under a permit to emigrate, and went to the United States in 1853; that he has been regularly naturalized in the superior court in the city of New York, on the 31st day of May last, and in June last returned to Prussia to visit his relatives, and was immediately notified to report himself at Obernick, for the purpose of being incorporated in the army. He was from there sent to Gross-Glogan, where he is compelled to perform military duty in the first company of the third Posenoche infantry regiment.

Upon this statement of facts I have addressed to Baron von Schleinitz a communication asking for his release, a copy of which is herewith transmitted, maked exhibit No. 2.

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I have the honor to present herewith, to the consideration of the department of State, the case of August Friedrich Winckelmann, a citizen of the United States, who, during the early part of the present month, appeared in person at this legation, soliciting its aid and protection. Mr. Winckelmann is a native of the Kingdom of Hanover—went from there to the United States, and was, in 1853, duly naturalized at Charleston, South Carolina, as appears from his certificate of naturalization which he produced. He left New Orleans, where he at present resides, with his family, to visit his aged mother, and on arriving at Feven, his native place, a claim for military services was raised against him. To escape from immediate danger of being forcibly enlisted he entered into an arrangement with the magistrate at Feven to deposit the sum of three hundred thalers for the purpose of procuring a substitute in case he should be unable to obtain relief and assistance of the government of the United States. For that purpose he came here to Berlin, but as I have no official relations with Hanover, I desire the instructions of the department as to what action, if any, I shall take in the premises. * * * * *

I have the honor to be, very respectfully, your obedient servant,

N. B. JUDD.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Mr. Spandau to Mr. Judd.

RYCZYWOL, KREIS OBORNICK,
June 30, 1861.

DEAR SIR: On the 1st of June I left New York to pay a visit to my friends, who reside in the above-named city, which I left in my seventeenth year. I was absent eight years, and during that time became a citizen of the United States. I left New York suddenly, and therefore had no time to procure me a passport from Washington. I procured one at Hamburg of Mr. Anderson by showing him my citizen papers, still in my possession, and by other evidence. I arrived here to my city a few days ago, and had to deliver my passport to the mayor of the city. A day afterwards I received an order that I shall be in Obornick on the 9th of July, 1861, to be enlisted as a soldier in the Prussian army. As my coming here is only on a *visit*, and as I am no more a citizen of Prussia, I beg of you your counsel and protection. I hope you will look at the matter, and that you will advise me how to act. My situation is a critical one, to be troubled in such a way. Again I hope that you will advise me and give me your protection. If you want my citizen paper, I will send it to you.

Hoping that I may not be troubled any further, by your giving me protection, I remain, your obedient servant,

JACOB SPANDAU.

Hon. Mr. JUDD, *United States Minister, Berlin.*

Mr. Judd to Mr. Spandau.

LEGATION OF THE UNITED STATES,
Berlin, July 5, 1861.

SIR: Your favor of the 30th June was received to-day. Under the facts stated by you, our government holds that you are not bound to perform military service, and that as a citizen of the United States you are entitled to all the protection it can give, although the government of his Majesty the King of Prussia insists upon its right to the military service of all its former subjects, unless they

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have been absent from the country for a term longer than ten years, or have emigrated under a permit issued by the proper authorities. As your case may be the subject of a controversy between the governments, if you are arrested, you had better come to Berlin with your certificate of naturalization, so that I can examine into the facts, and give you such advice as your present condition may require. Your passport is not necessary to enable you to come here, especially if you keep your intention of coming here to yourself, and proceed in a quiet and unostentatious manner.

If, however, circumstances should be such that you cannot leave immediately, since it is desirable that you should be here before the 9th, you will forward me your naturalization paper, with such an account of yourself as will enable me to present to the government all the circumstances of this case.

It is the intention and desire of our government to fully protect all its citizens, whether native-born or naturalized.

Respectfully, yours,

N. B. JUDD.

Mr. J. SPANDA,U *Ryczywol, Kreis Obornick.*

Mr. Judd to Mr. Spandau.

LEGATION OF THE UNITED STATES,
Berlin, July 19, 1861.

SIR: Your note to Mr. Dowley has been left at this office. I had supposed, from receiving no answer to my former communication, that you had avoided the threatened incorporation of you, an American citizen, into the Prussian army.

As a citizen of the United States you shall receive all the protection that I can give. For that purpose forward me immediately the following papers and information, as in my former communication I requested you to do.

1st. Your certificate of naturalization in the United States of America.

2d. The date and place of your birth; in what year you left Prussia and went to America.

3d. Had you a permit of emigration at the time you left Prussia.

4th. What officer ordered your arrest, and into what company and regiment have you been incorporated; at what place it is located, and who is in command; and all the other circumstances that will enable me to present your case properly to the authorities here.

If practicable, ask of the authorities having you in charge to delay any further proceedings against you until you can through me hear from his Majesty's government on the subject.

If, as you say, there is another man impressed into the service who has been in America for fourteen years, and is a citizen of the United States, the proceeding is illegal, and upon being furnished with the facts I can and will procure his release.

Hoping to hear from you by return mail, I am truly yours,

N. B. JUDD.

Mr. J. SPANDAU.

Mr. Spandau to Mr. Judd.

GROSS-GLOGAN, *July* 20, 1861.

DEAR SIR: Yours of the 19th instant came duly to hand, and I am glad to hear that you soon will set me at liberty from my present position which I am in. I hope that you may succeed, or else I shall not be able to stand it much longer, as Mr. Dowley knows me by person, that I am not strong enough to

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serve as a soldier; neither have I the passion to be ruled. I wish to God that my foot never would have set on this country. But what can I do now? My present position is so worse than if I would have committed the greatest crime, and every one points at me and says, "This is the American who ran away and now has to serve as a soldier."

Enclosed you will find my certificate of citizenship. I was born in Ryczywol, Kreis Obornick, on the 2d of August, 1835. I left Prussia on or about the 1st of August, 1853, (then merely a youth.) I had a certificate of emigration at the time I left Prussia.

I was ordered by the magistrate at Ryczywol to go to Obornick; from there was immediately sent on here, where I was dressed in soldier's dress, and was set in the first company third Posensche infantry regiment, at Gross-Glogan, and now I am here since to-day a week. I am not able to delay any proceedings whatever from the authorities, as they will not grant me anything. I have not sworn yet, but they will bring me to do so in a day or two. I beg of you now to do all in your power to bring me out of this as soon as possible, and that I may be able to pay you a visit soon, and that I may proceed with my journey and settle my business and then go back to America; and then, if necessary, there to take up arms and fight for the Union, which I will do with all my heart and soul. But here I never shall be able to stand it. I hope that I will get my release through you soon. I am very discouraged and downhearted, as I have nobody to whom I can speak; therefore I wish that you may go to work soon and help a poor American citizen and not a Prussian soldier.

I remain your most obedient servant,,

J. SPANDAU.

Hon. Mr. JUDD,
United States Minister, Berlin.

P. S.—The other American citizen who is also a soldier, will forward his citizen paper soon; he has not yet got it with him.

Mr. Judd to Mr. Spandau.

LEGATION OF THE UNITED STATES,
Berlin, July 23, 1861.

SIR: Your letter, containing your statement and also your certificate, was received yesterday morning.

I have sent a communication to Baron von Schleinitz, minister of foreign affairs, setting forth your detention and your statement of facts, and have applied for an order for your release. As soon as I receive an answer you shall be advised of the result.

Nothing shall be left undone to procure your release.

Respectfully,

N. B. JUDD.

Mr. J. SPANDAU.

[Exhibit No. 2.]

Mr. Judd to Baron von Schleinitz.

LEGATION OF THE UNITED STATES,
Berlin, July 23, 1861.

MONSIEUR LE BARON: The undersigned has the honor to present to your excellency the case of Jacob Spandau, a citizen of the United States, now forcibly compelled to serve in the Prussian army.

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The following are the facts as represented to the undersigned: Spandan was born at Ryczywol, in the circuit of Obornick, the second day of August, 1835. He left the kingdom of Prussia on or about the first day of August, 1853, under a permit of emigration issued by the proper authorities and went to the United States of America, and by due process was naturalized and became a citizen thereof; that Spandau left the United States in June last for a visit to his friends in his native place, and arrived at Ryczywol about the 30th of June last and delivered his passport to the magistrate; that he was immediately served with an order to report himself at Obornick on the 9th of July instant, to be incorporated into the Prussian army; that from that point he was sent to Gross-Glogan and incorporated into the first company of the third Posensche infantry regiment, and is about to be compelled to take the oath required of persons so situated.

Upon this statement it appears that Jacob Spandau by emigrating under a permit ceased to be a Prussian subject, and having taken upon himself the duties and acquired the rights of a citizen of the United States of America, the undersigned would ask that he be discharged from the detention and restraint to which he has been and is now subjected.

The undersigned has the honor to renew to your excellency his assurance of high consideration.

N. B. JUDD.

His excellency BARON VON SCHLEINITZ, *&c.*, *&c.*, *&c.*

Mr. Seward to Mr. Judd.

(Extract.)

No. 12.] DEPARTMENT OF STATE,
Washington, August 12, 1861.

SIR: Your despatch of July 24, No. 4, has been received. * * * I am satisfied with your proceedings in the case of Jacob Spandau, of Prussian birth, but now a naturalized citizen of the United States, who has been required to do military service while on a visit to his native country. You may bring the case of Friedrich Winckelmann to the attention of the government of Hanover, and ask his release upon the same principles which have been adopted for the government of the legation at Berlin, making your communication through the same channel you use in other cases. * * * *

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

NORMAN B. JUDD, *Envoy, &c., Berlin.*

Mr. Judd to Mr. Seward.

[Extract.]

No. 6.] LEGATION OF THE UNITED STATES,
Berlin, August 27, 1861.

SIR: * * * * * I enclose herewith copies of my correspondence with Otto Schöenenberger, United States consular agent at Königsberg, in relation to the case of Leonhard Müller, marked 1, 2, 3 and 4, and of my communication to the ministry of foreign affairs on that subject, marked exhibit No. 2.

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From a private note since received from Mr. Schöenenberger, it would appear as though the Prussian police had suspended its chase after Mr. Müller.

* * * * * * *

I have the honor to be, very respectfully, your obedient servant,

N. B. JUDD.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Mr. Shöenenberger to Mr. Judd.

[Extract.]

UNITED STATES CONSULATE,
Königsberg, July 29, 1861.

SIR: Allow me to submit to your excellency the following case: Leonhard Müller, a native of Prussia, born in this city, but a naturalized citizen of the United States of America, called at my office this morning and stated that the department of police, notwithstanding the American passport which it holds, is inclined to still consider him as a Prussian subject, intending to deal with him accordingly for the alleged avoidance of military duty.

Being convinced, from the naturalization paper, which bears the date New Orleans, March 21, 1853, and recorded under No. 339 of the respective court, that he is fully entitled to the protection which the several enactments of Congress secure to citizens of the United States—the more so as he left his native country when seventeen years of age, *i. e.*, according to the declaration of the Hon. Lewis Cass, before the duty of a subject to render military service could have commenced—I have instructed him not to obey the summons to appear before the Namen muster-roll department for examination and eventual enlistment into the army and navy. The gravity of the case, as well as the limited power and the inferior position of a consular agent, who does not even possess the Statutes at Large, consequently is without guide in matter of similar import and unable to give a legal decision on the one side, and the proper supremacy of your position on the other, naturally prevents my direct interference, unless ordered by your excellency and under your special instruction, to guard the rights of a fellow-citizen, although but by adoption, especially in these days of serious commotion at home. I need not urge an immediate action in this case, being convinced that the well-known honorableness of your character, which won and secured to you that high position which you now hold at the hands of a party which, under the protection of a kind Providence, finally and promptly must be triumphant in the great cause and violent struggle which now agitates our beloved country, will not allow you to let the aggrieved person, the said Leonhard, suffer any longer in his present dilemma than absolutely necessary.

* * * * * * * *

I have the honor to subscribe myself your excellency's most obedient servant and fellow-citizen,

OTTO SCHÖENENBERGER.

His Excellency N. B. JUDD,
United States Minister, Berlin.

Mr. Judd to Mr. Schöenenberger.

LEGATION OF THE UNITED STATES,
Berlin, July 31, 1861.

DEAR SIR: Your favor of the 29th instant, stating the case of Leonhard Müller, is this moment received, and I hasten to reply.

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It appears from your statement that Mr. Müller became a citizen of the United States by naturalization on the 21st March, 1853, more than seven years ago. The laws of the United States require him to have resided therein five years preceding the act of naturalization, making the time more than twelve years since Mr. Müller left Prussia.

A recent decision made by his Majesty's government in the case of one Isidore Davidson, and communicated to this legation by Baron Von Schleinitz, minister of foreign affairs, under date of June 25, 1861, declares that by an absence from Prussia of ten years the quality of Prussian subject is lost, and the obligation to serve in the army is also discharged. I presume that the local authorities at Königsberg are not advised of this decision, as I found a few days since that it had not been communicated to the authorities attempting the control of Mr. Davidson.

You are authorized on behalf of this legation to notify the local authorities of this decision, and protest civilly but firmly against any further attempt to incorporate Mr. Müller into the Prussian army. In case further proceedings against Mr. Müller are attempted, you will immediately advise this legation, and accompany your notification with information upon the following points:

1. The birthplace of Mr. Müller, the date of his birth, and when he left Prussia.

2. When he arrived in the United States, at what port he landed, and where and how long he resided therein.

3. His naturalization papers, his passport, and the time when he returned to Prussia.

4. The names of the officials who are taking proceedings against him, and what they have done.

You will readily understand the importance of putting this legation in possession of all the facts, so that it can act promptly and understandingly, as it is my desire and intention to protect citizens of the United States to the fullest extent that my power and the law will permit.

Yours truly,

N. B. JUDD.

OTTO SCHÖENENBERGER, Esq.,
United States Consular Agent, Königsberg.

Mr. Schöenenberger to Mr. Judd.

CONSULATE OF THE UNITED STATES OF AMERICA,
Königsberg, August 3, 1861.

DEAR SIR: Your despatch under date of July 31, although regularly mailed, was not received until the 2d instant, at five o'clock p. m., too late an hour to enter into communication with the president of the police department, Mr. Maurach.

I therefore called on him early this morning and informed him of your communications respecting the recent decision of his Majesty's government in the case of Isidore Davidson, of which the authorities of this province have not been advised. Our interview was a very courteous one, and at the request of Mr. Maurach I stated, in a letter addressed to him this day, and recorded under No. 174 in my journal, the facts communicated by you to me, and protested civilly but firmly against any further attempt to incorporate M. Leonhard Müller into the army.

Although the order of the police department to have Mr. Müller brought before the muster-roll department had been issued, the execution of it having been deferred for a day or two until I should have heard from the legation, by the kind consideration of Mr. Maurach Mr. Müller has met with no further

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molestation, and I believe this case will have a satisfactory issue, for I understand the local authorities have abandoned further proceedings until instructions, expected from Berlin, shall have arrived.

I also believe that this case has been aggravated solely by the self-important manner of the subordinate police commissaire, Schwarzenberg, who greatly annoyed Mr. Müller, and caused unnecessary anxiety in the minds of his aged parents; even his conduct towards me, when I requested him to allow me to peruse the alleged order of arrest, at that time in his hands, was entirely void of that respect and regard to which a representative of our government is entitled. I should be the more gratified to see this question promptly and satisfactorily settled, as other naturalized citizens of the United States, but natives of this place, are soon expected here on a visit to their relations, for whom the subordinate officials are already on the alert.

I have the honor to be, yours truly,

OTTO SCHÖENENBERGER.

His Excellency N. B. JUDD,
Envoy Extraordinary and Minister Plenipotentiary, Berlin.

Mr. Judd to Mr. Schöenenberger.

LEGATION OF THE UNITED STATES,
Berlin, August 6, 1861.

DEAR SIR: Your communication under date of August 3, 1861, has been received. I learn from it, with pleasure, that, thanks to your prompt and efficient steps, Mr. Müller bids fair to be spared any further trouble. I have laid his case before the ministry of foreign affairs, and have received assurances that everything will be done to avoid any disturbance of the present existing friendly relations of the two governments. Should, however, contrary to expectations, Mr. Müller still further be annoyed by the officiousness of subaltern police officers, you will at once report the fact to this legation, with copies of all such correspondence on your part as the case may have called forth. As soon as an official reply to my communication shall have been received from the department of foreign affairs, I will advise you of the same.

With assurances of my entire approval and commendation of your action in this case of Mr. Müller, I have the honor to be, yours truly,

N. B. JUDD.

OTTO SCHÖENENBERGER,
United States Consular Agent, Königsberg.

[Exhibit 2.]

Mr. Judd to minister of foreign affairs.

LEGATION OF THE UNITED STATES,
Berlin, August 2, 1861.

The undersigned has the honor to lay before the ministry of foreign affairs of his Majesty the King of Prussia the following facts in relation to Mr. Leonhard Müller, a citizen of the United States of America, as reported to the undersigned by the consular agent of the United States resident of Königsberg. From the representations of said consular agent it appears that Müller is a seaman, having a protection as such issued by the proper authorities and on behalf of the United States. He was born in the city of Königsberg; left there in the year 1848 and went to the United States, where he was duly naturalized as a citizen thereof on the 21st day of March, 1853. Having lately come to the

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city of Königsberg on a visit, on a passport from the government of the United States, he is there threatened by the local authorities with arrest, for the purpose of being incorporated into the Prussian army; to avoid which he is now at and under the protection of the United States consulate. The facts, as represented to the undersigned, clearly bring Mr. Müller within the rule laid down in a communication addressed by Monsieur le Baron de Schleinitz to this legation, under date 25th June, 1861, relating to the case of Isidore Davidson. An arrest of Mr. Müller and his incorporation into the army, under these circumstances, would do him a great wrong, and might lead to difficulties which the undersigned is solicitous of avoiding. He therefore respectfully asks the minister of foreign affairs of his majesty the King of Prussia, if possible, to cause an order to be issued to the local authorities at Königsberg instructing them not to arrest Mr. Müller.

N. B. JUDD.

The MINISTER OF FOREIGN AFFAIRS
Of his Majesty the King of Prussia.

Mr. Judd to Mr. Seward.

[Extract.]

No. 7.] LEGATION OF THE UNITED STATES,
Berlin, September 3, 1861.

SIR: * * * * * * * * *

I enclose herewith a copy of a communication received from the minister of foreign affairs in the case of Leonhard Müller, the facts of which I had the honor to report to the department in my last despatch. * * *

I have the honor to be your obedient servant,

N. B. JUDD.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

The minister of foreign affairs to Mr. Judd.

[Translation.]

BERLIN, *September* 2, 1861.

The undersigned, in reply to the note of the 2d August last, has the honor to inform Mr. Judd, United States envoy extraordinary and minister plenipotentiary, that, according to information from the royal authorities in relation to the sailor, Leonhard Müller, of Königsberg, a naturalized citizen of the United States, lately returned home, his liberty is threatened in no manner; and as to the request to know if Mr. Müller still owes military service to Prussia, that question will be duly investigated by the competent royal authorities.

The undersigned takes the occasion, &c.

HELWIG,
For the MINISTER OF FOREIGN AFFAIRS.

Mr. JUDD, *&c., &c., &c.*

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Mr. Judd to Mr. Seward.

No. 9.] LEGATION OF THE UNITED STATES,
Berlin, September 30, 1861.

SIR: I have the honor to call the attention of the government to the case of Jacob Spandau, reported in despatches numbers 4 and 6 from this legation. A final answer has been received from the government of Prussia declining to discharge him from the Prussian army, a copy of which is hereto attached, number 1.

As the issue is distinctly made by that government's refusing a release of a citizen of the United States from enforced military service in the Prussian army, I propose to restate the facts as laid before the department in my previous despatches:

Jacob Spandau, in the year 1853, and at the age of seventeen, obtained leave from the local authorities to go to Hamburg for four months to see some relatives, and went from there to the United States, and remained in the United States until in July of this year. He became a citizen of the United States, and in July last returned to his native town of Ryczywol, in the province of Posen, to visit his parents, and was immediately notified to report himself at Obornick to be incorporated into the army, and has been compelled to serve in the Prussian army in spite of his citizenship and the remonstrances of this legation, and is forced to wear the uniform and fight the battles of a government whose allegiance the government of the United States required him solemnly and under oath to renounce before admitting him to citizenship.

The laws of Prussia require every Prussian subject who has attained the age of twenty full years to serve in the army, and all the young men of that age must in that year present themselves to the military commission of their circle to be examined as to fitness and be incorporated into the army.

It is thus apparent that the Prussian government has compelled a citizen of the United States to serve in its army, when at the time he left Prussia he was not owing military service and could not for years be required to perform it. I am not disposed to submit to any such proposition unless specially instructed so to do. Prussia, as the leading power of Germany, can mould and form the policy of most all the other German states, and if its policy is submitted to, every little petty principality may commence a system of terrorism against our citizens which will effectually prevent any of them visiting the homes of their childhood or the graves of their fathers. The principle adopted by the government is a violation of the principles of international law on the question of allegiance, as understood by us, and makes the conferred citizenship, by virtue of naturalization, a partial and conditional right. We require faith and allegiance, but give no protection to citizens free from the reproach of crime. I cannot better express my feelings than by an extract from one of the young man's (Spandau's) letters to me: "I wish to God that I would have been on the side of my friends and cousin, who have fallen in the battle in Missouri, and the same bullet had killed me ere I have to suffer so much as I do here."

The answer I have received comes from the under secretary, Von Sydow, for the minister of foreign affairs, and not from the minister himself. I have advised the department heretofore that Baron Von Schleinitz, although still nominally minister, in reality went out of office when he left the city in July last, and that Count Bernstorff, who is to succeed him, has not yet officially notified the diplomatic representatives that he has entered upon the duties of the office. This interregnum is being filled by under secretaries, and we are required to address the "Ministry for Foreign Affairs." As soon as Count Bernstorff assumes the portfolio for foreign affairs I shall again call his attention to this case, and demand the discharge of Spandau upon the true American ground: that he was guilty of no crime, was a citizen of the United States, and entitled to

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its protection abroad as well as at home. The question of the exemption of citizens of the United States from enforced military service in Europe ought no longer to be left open, and their release, when seized, ought to be a matter of right and not of favor. In all the cases in which the question has been made and the person released, the governments of Europe have, in their manner of release, so acted as to let the act done wear the aspect of grace or favor instead of yielding to the question of right—a position that our government ought not to occupy. This assertion may seem to conflict with the loud claim that the Prussian government, in releasing Isidore Davidson, made a concession to the United States, but an examination of the note of Baron Von Schleinitz to Mr. Wright will show that he was released on a construction of Prussian law, and not as a matter of right based upon his citizenship in the United States. That construction was intended for other purposes and not to release Davidson; but so much has been said about this pretended concession, and its being an advancement in the direction that we desire, that I have read the note with care, and investigated the motives causing it, and the following is the result:

Very many of the subjects of Prussia who were involved in the movements of 1848-'49 had fled to other countries in Europe and remained there without acquiring citizenship. Under the amnesty granted by the present King, on his accession to the throne, many of those persons were returning to Prussia, and some that the government desired to keep away. As a reason for again driving them forth the government ruled that by an absence of ten years the quality of Prussian subject was lost. The rule adopted affected Davidson and the class of persons coming within its principles, but was not made for or intended as a concession to the United States and on behalf of its citizens.

The history of the last six months calls loudly upon our government to protect the rights of those who have so effectually aided in its preservation, and no nationality more so than the German.

I have the honor to be your obedient servant,

N. B. JUDD.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Minister of Foreign Affairs to Mr. Judd.

[Translation]

No. 1.] BERLIN, *September* 25, 1861.

SIR: In your letter of the 23d of July last you have called for my intervention, that Mr. Jacob Spandau, of Prussian origin and now a citizen of the United States of America, may be exempted from military duty in the royal army, in which he was enrolled after his return to Prussia. The contents of that letter were immediately brought to the knowledge of the minister of the interior and of war, with a request to examine into the position of the said Spandau. Having just received the reply of my colleagues, I hasten to inform you, sir, that the official inquiries to which your application gave rise have in nowise confirmed the views you desired to give me of the circumstances under which Jacob Spandau left his native country. At no time has this individual asked for or obtained permission to expatriate himself. The competent authority accorded to him only on the 15th of July, 1853, upon the production of the certificate hereto annexed, in copy of the magistrate of Ryczgwol, of the 12th of the same month, a passport, available for four months, which authorized him to go to Hamburg. Spandau made an improper use of this document by going to the United States. His unlawful absence of seven years has not taken from him his quality of Prussian subject, nor exempted him from the

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obligation which that quality imposes on him by the terms of the law of serving in the Prussian army. Nor was he at all authorized to evade at his own will the duties which, as the King's subject, he must fulfil. In consequence, Mr. Spandau, on his return to Prussia, was bound to be incorporated in the army in conformity with the laws of the country, and the government is not in position to cause his discharge.

Much regretting not to have been able to gratify the wish you have expressed to me in this regard, I have the honor to offer you, sir, the assurance of my high consideration.

V. DE SYDOW,
For the Minister of Foreign Affairs.

Mr. JUDD.

Mr. Spandau to Mr. Judd.

GLOGAU, *September* 21, 1861.

DEAR SIR: About six weeks since I wrote you about my case, but the letter remained unanswered; I now take the liberty again in addressing you, hoping that you will excuse my frankness. The time is due when I wanted to be back again in my country, and yet I see myself a soldier yet; my whole career of business will be ruined for me, but I would give in to all that at the present, and a good deal more, if I only could hope. Have you no decisive answer yet? I beg your honor to excuse me, and not to think hard upon me, by bothering you with so much writing, but I beg of you, also, to let me know whether my case is still before Baron Von Schleinitz, or whether he has given you an answer already. It is now two months since my application you have sent in is before him, and I am a soldier. I wish to God that I may have fallen in the field with my brethren in America before I shall serve here three years; I wish to God that I would have been on the side of my friends and cousin, who have fallen in the battle at Missouri, and the same bullet may have killed me, ere I have to suffer so much as I do here. Your honor will surely favor me this time with a few lines, and give me particulars about my case.

Concluding, I beg you again to let me know whether I will have to suffer my time, or that I will be released soon.

Hoping that you will favor me, and for which I shall always remember you in my days, I am your most humble servant,

J. SPANDAU.

Hon. Mr. JUDD,
United States Minister, Berlin.

Mr. Judd to Mr. Spandau.

LEGATION OF THE UNITED STATES,
Berlin, September 23, 1861.

SIR: Your letter of the 21st instant is at hand, and I assure you that you have my warmest sympathy for your unpleasant position. In my letter to you I advised you that I had made a formal application for your discharge, setting forth the facts of the case. Since that time I personally called the attention of Baron Gruner to your case. Receiving no answer, I again called the attention of the department of foreign affairs to it by a communication in writing, bearing date on the 27th of August. No reply has yet been received, and I will again call the attention of the department to it in such a manner as will cause them

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to notice it. I can only account for the delay for the reason that the minister for foreign affairs has been away since July, and the subordinates dare not take any responsibility. To-day I will write to the department again. I regard the delay that has occurred as wholly inexcusable, and a great wrong to a citizen of the United States. There has been no neglect on the part of this legation to press the matter of your release from your present unjust detention, and everything shall be done that is in its power.

Truly yours,

N. B. JUDD.

Mr. SPANDAU.

Mr. Judd to Mr. Spandau.

LEGATION OF THE UNITED STATES,
Berlin, September 28, 1861.

SIR: I wrote you on the 23d day of this month that I should make another application to the ministry of foreign affairs for your discharge, and the same day I did so. I have a reply from that office, in which they say that you did not emigrate under a permit, but only under a license to go to Hamburg for four months, and they decline interfering. I regret very much that you should have mistaken your license to go to Hamburg for a permission to emigrate, as it leaves me in my application to the department to allege that fact as one of the reasons for your having been relieved of your quality of Prussian subject. If the Prussian government is mistaken as to the character of your permit, you will so advise me immediately. I shall at once communicate this decision to the government of the United States, and ask for specific instructions. I have, from time to time, communicated to the State Department all the steps I have taken.

If I was fully authorized or was free to act upon my own conviction of right, I should make a formal demand for your release, based solely upon the ground that you had violated no law of Prussia, and become a citizen of the United States, and was entitled to its full protection.

Before doing this I must await advice and instructions from Washington, and will advise you of their purport as soon as they are received. I regret your unfortunate position, and if there was anything more that I could do before hearing from the State Department I would gladly do it.

Yours, truly,

N. B. JUDD.

Mr. SPANDAU.

Mr. Spandau to Mr. Judd.

GLOGAU, *September* 29, 1861.

DEAR SIR: I am in possession of yours of the 23d instant, and also the one of the 28th, which just now came to hand, and in which I read the answer you received from the office of the ministry of foreign affairs, in which they give the main point that I did not have a permit to emigrate. Whether this be true or not I cannot say, as at that time I was merely a child, and was under protection of some other folks who emigrated at that time. Only so much I am sure, that I had a permit for one year, and whether only to Hamburg, or to New York, or to Brazil, I cannot say, as I never took any notice of it, only so much that I came through, and without it I knew a person in Europe cannot travel. How this may be, or what the burgomaster wrote to the department from the city where I was born, I do not know; only I know so much that I had a pass-

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port when I emigrated, that I am a citizen of the United States, and I was nine years in succession there; that I only came here on a visit, and do not want anything of Prussia; that if I get free to day I would be back in less than no time, and that I never would set foot in this country again.

Now I thank you very much for the trouble you have had, and I am sure that you have done everything in your power, and that you will, further, not forget me, and do everything possible. My situation is a critical one, and if I only had a chance to come to Berlin and have an interview with your honor, I would tell you more, as I only came here on a visit, and not to stay. What I can do now is to carry my trouble till you will hear from Washington, and then I hope you will act further. I will conclude, hoping that you will not forget me, and that in case there shall be any point in which you can procure my release, you will use the same, and that the Almighty may help me soon to come and repay you for all your trouble, and may also soon help me back again to my country where my heart, my arm, my life is pledged to the national cause, and if only could share in its fortunes.

Thanking you again for all that you have done for me, and for all that you will do, I am your most obedient servant,

J. SPANDAU.

Mr. Judd to Mr. Seward.

[Extract.]

No. 13.] LEGATION OF THE UNITED STATES,
Berlin, November 23, 1861.

SIR: I have the honor to acknowledge the receipt of despatch No. 17, bearing date on the 21st of October ultimo.

Adolph Katz, a naturalized citizen of the United States and a resident of California, is now in Prussia on a visit to his parents, and purchasing goods for his business. His native district is Posen, and the authorities notified him of their intention to incorporate him into the army. He came to this legation for protection. I addressed a note to the Foreign Office in relation to his case, a copy of which is hereto attached. No reply having been received, on the 10th day of November instant I had, by appointment, an interview with Count Bernstorff at the Foreign Office, and explained to him the circumstances of the case, and also that of Spandau, which has heretofore been fully reported. I found that he was not familiar with the course that the various negotiations in relation to questions of military service had taken, his only opinion being that a Prussian subject emigrating without a permit, and before the performance of his military duties, was bound, on returning to Prussia, to fulfil the requirements of the Prussian laws. I called his attention to the case of Davidson, and the precedent established by it, and also to the question as one of right, under the obligations assumed by a person upon being admitted to citizenship under the laws of the United States. He expressed some surprise at being informed that all allegiance to the government of the country in which the applicant was born was required to be renounced in open court, under oath, before the right of citizenship was awarded. He knew nothing of the case of Davidson, but made a memorandum, and said he would examine into the matter and give me an answer in writing.

As I was taking my leave he inquired of me if Katz was in Berlin, to which I responded affirmatively, and he replied: "I want to inquire unofficially why he don't leave Prussia, as he is not in the army," and I told him I had advised Katz to do so, but that his business engagements required him to remain a few months longer, if it were possible. He said, "a few men, more or less, was not

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of much consequence to the government of Prussia." I requested him to have Spandau dismissed from the army, no matter what might be his opinion of the question of legal right.

* * * * * *

I have the honor to be, respectfully, your obedient servant,

N. B. JUDD.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Mr. Judd to Count Bernstorff.

LEGATION OF THE UNITED STATES,
Berlin, October 24, 1861.

YOUR EXCELLENCY: The undersigned has the honor to call the attention of your excellency to the case of Mr. Adolph Katz, a citizen of the United States of America, who has been notified by the burgomaster of Bogazen, in the circle of Obornick, grand duchy of Posen, that he must report himself for military service in the army of his Majesty the King of Prussia, and who is threatened with a forcible incorporation into the same.

Mr. Katz represents to the undersigned that he left Prussia on the 3d of March, 1851, at the age of sixteen years; that he has been absent from Prussia more than ten years, during which time he has become a citizen of the United States of America, and that he is now in Prussia on a visit to his relatives. The burgomaster at Bogazen, considering Mr. Katz still liable to military service in Prussia, deems it his duty at once to proceed to arrest him unless otherwise directed by the competent superior authorities, leaving the question of his liability to military duty to be determined hereafter. Believing such a course to be unjust, the undersigned would ask for an order staying the proceedings of the burgomaster at Bogazen in respect to Mr. Katz pending any inquiries which his Majesty's government may deem it expedient to make concerning the facts of the case.

The undersigned avails himself of this opportunity to renew to your excellency the assurances of his high consideration.

N. B. JUDD.

His Excellency Count BERNSTORFF,
Minister of Foreign Affairs.

Mr. Seward to Mr. Judd.

No. 22] DEPARTMENT OF STATE,
Washington, January 10, 1862.

SIR: Your despatch of November 23, No. 13, was duly received. It relates to the cases of Adolph Katz and Jacob Spandau. These cases happened very inopportunely. It is hardly a right of a citizen in pursuit of merely personal objects in a foreign country to draw this country into a controversy with a foreign power when we are struggling with insurrection at home, and when the practice of some self-denial on his part would enable us to postpone the debate until a more favorable season. There is some reason, however, to believe that the government of Prussia would not just now be indisposed to practice liberality towards the United States, which would be remembered with cordiality ever afterwards. I have thought, therefore, that, in the two cases named, it would be well for you to inquire whether the release of the persons may not be accorded as a courtesy without compromising, on the part of either govern-

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ment, the principles they have hitherto maintained. If this cannot be done, I shall deem it a duty to resume the question involved as you propose, and to submit an argument upon the subject, with the President's approbation, to Count Bernstorff.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

NORMAN B. JUDD, Esq., *&c.*, *&c.*, *Berlin.*

Mr. Judd to Mr. Seward.

No. 16.] LEGATION OF THE UNITED STATES,
Berlin, January 14, 1862.

SIR: I have the honor to lay before you a copy of a communication hereto attached, dated December 28, 1861, containing the final conclusion of the Prussian government in the case of Adolph Katz, referred to in my previous despatches. You will perceive that the right of expatriation by a subject of Prussia, before military duty has been discharged, is substantially denied, and that citizenship under our Constitution and law is no protection to the returned subject against enforced military service. My opinion that no progress upon this question had been really made upon principle, and that the action of the Prussian government had been exceptional and limited to the particular cases, is fully borne out in that communication. I can see no safety for a naturalized citizen, once a subject of this government, in returning to this kingdom, who, without having a permit to emigrate, has left it before having performed the military service required by the laws of Prussia. I have urged this matter upon the minister of foreign affairs, Count Von Bernstorff, in several personal interviews, but he has not held out any hope of a change of policy. The exercise of the power to compel naturalized citizens to serve in the Prussian army ought not to be submitted to; and I desire specific instructions to govern my action upon this question. The legislature assembles to-day, and I intend to see if anything can be done on that question with that body. Katz was still at liberty when that decision was made; and I advised him to leave the country, but he said his business required his presence here, and he decided to submit to the military necessity and take his chances for the future.

The only person that I am aware of as now doing enforced military duty is Jacob Spandau, the various steps in whose case have been from time to time reported. * * *

I have the honor to be, respectfully, your obedient servant,

N. B. JUDD.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Count Bernstorff to Mr. Judd.

[Translation.]

BERLIN, *December* 28, 1861.

The esteemed note from the envoy extraordinary and minister plenipotentiary of the United States of North America, Mr. Judd, dated the 24th of October, of the present year, gave occasion to the undersigned to confer with his colleagues of the royal government upon the adoption of measures for obtaining the desired information as to the condition of the so-called citizen of the United States, Adolph Katz, of Bogazen, that it might be precisely determined and

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decision made whether the enrolment of Katz in the army should be cancelled. The investigations undertaken have resulted as follows: That Adolph Katz, on the 11th of September, 1835, at Bogazen, in the circle of Obornick, in the province of Posen, was born a subject of Prussia. According to the law of September 3, 1814, he then came under obligation to present himself in the year 1855 for enrolment in the regular army. This obligation he has thus far actually neglected, inasmuch as on the 3d of March, 1851, he got from the magistrate at Bogazen a pass which authorized him to journey into the interior, but only as far as Minden, and was available for one year only. With the aid of this pass he took himself off to the United States of North America, and has only within a short period returned therefrom.

According to the law of the 31st of December, 1842, Katz must still at this time be looked upon as a subject of Prussia, because, since the expiration of his pass, which occurred on the 3d of March, 1852, ten years additional have not yet passed away. But, even if such a time had elapsed, Katz would still remain subjected to his obligation to complete his unfulfilled and neglected term of military service. From the last, the circumstance that he, without permission from the government of his fatherland, had allowed himself to assume to be a citizen of the United States cannot release him. In his proper character, as subject of Prussia, he must now, therefore, be enrolled in the army. Under this condition of affairs the undersigned perceives, with lively regret, that it is not in his power to gratify the wish of the minister by pronouncing the liberation of Katz from the obligations of service bearing universally upon all Prussians. He embraces this occasion to renew to the minister the assurances of his most distinguished consideration.

BERNSTORFF.

Mr. N. B. JUDD, &c., &c., &c.

Mr. Seward to Mr. Judd.

No. 24.] DEPARTMENT OF STATE,
Washington, January 25, 1862.

SIR: In a recent letter to this department, Dr. H. Guadendorff, of Schenectady, New York, informs us that an adopted citizen of the United States, by the name of Gustavus Wilhelmi, who some months ago went to Europe to arrange certain matters of private interest, was retained in Prussia, and is now serving in the army of that kingdom at Magdeburg. You are directed to inquire into the circumstances connected with the arrest and detention of the person referred to; and if you should deem them sufficient to justify your interference in his behalf you will endeavor to obtain his discharge by such means as were suggested in my despatch No. 22, of the 10th instant, in relation to the cases of Adolph Katz and Jacob Spandau, unless the result of your proceedings in regard to those individuals shall not have been such as to warrant an application in the present case.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

NORMAN B. JUDD, Esq.

Mr. Seward to Mr. Judd.

[Extract.]

No. 25.] DEPARTMENT OF STATE,
Washington, February 10, 1862.

SIR: Your despatch of January 4, No. 16, has been received. It commu ni cates the answer of Count Bernstorff, denying the right of Adolph Katz to

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be exempt from the obligations of military service in Prussia by virtue of his naturalization as a citizen of the United States. The paper alludes also to the case of Jacob Spandau who makes a similar claim upon the same ground. The question involved is an old one, and the decision which has now been pronounced by Count Bernstorff is understood to be in accordance with the position which the Prussian government has constantly held. It will be your duty to inform Count Bernstorff that this government is unable to concede the justice of that decision. At some future day I shall have occasion to present the argument which I will hope may induce a reconsideration of the subject by the Prussian government.

* * * * * * * *

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

NORMAN B. JUDD, Esq., &c., &c., *Berlin.*

Mr. Judd to Mr. Seward.

[Extract.]

No. 18.] LEGATION OF THE UNITED STATES,
Berlin, February 17, 1862.

SIR: * * * * * * *

I met Count Bernstorff, minister of foreign affairs, at the ball of Prince Karl, the King's brother, the evening of the day on which despatch No. 22 was received, and stated to him your request in relation to Spandau and Katz. He said he could not act without reference to the other departments, and asked me to put the request in writing. Accompaning this is a copy of the communication which I accordingly submitted to him. Your despatch No. 24, referring to the case of Gustavus Wilhelmi, does not contain such specific information as enabled me to send to Magdeburg to obtain the necessary facts upon which to base a direct application to the foreign minister for the release of Mr. Wilhelmi. To obtain these facts I addressed a communication to Count Bernstorff, a copy of which is hereto annexed, and I shall press the matter with due diligence. What the result will be I cannot now foresee, as it may depend upon the humor of his Majesty. Count Bernstorff does not appreciate the importance of this question, and has in his conversation with me held the most extreme doctrines of Prussian rights. * * *

I have the honor to be, very respectfully, your obedient servant,

N. B. JUDD.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Mr. Judd to Count Bernstorff.

LEGATION OF THE UNITED STATES,
Berlin, February 14, 1862.

The undersigned has the honor to submit to his excellency Count Von Bernstorff, minister of state and of foreign affairs, an extract from a despatch received by him lately from the Secretary of State of the United States, the Hon. William H. Seward, regarding the cases of Jacob Spandau and Adolph Katz, citizens of the United States, now serving as soldiers in the Prussian army, as follows: "I have thought, therefore, that in the two cases named it would be well for you to inquire whether the release of the persons may not be accorded as a courtesy without compromising on the part of either government the priciples

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they have hitherto maintained." To facilitate the consideration of the matter the undersigned has the honor to refer his excellency, Count Von Bernstorff, to a communication from the minister of foreign affairs under date of September 25, 1861, regarding the case of Jacob Spandau, and to a note addressed by his excellency to the undersigned, under date of December 28, 1861, regarding that of Adolph Katz. The Secretary of State deems it proper to direct the undersigned to make the request contained in the extract above quoted, as he says there is some reason to believe that the government of Prussia would not just now be indisposed to practice liberality towards the United States, which would be remembered with cordiality ever afterwards. Feeling assured that this request regarding the individual in question will receive an early consideration, which the undersigned hopes will be a favorable one, he avails himself of this opportunity to renew to his excellency Count Von Bernstorff the assurance of his distinguished consideration.

N. B. JUDD.

His Excellency Count VON BERNSTORFF.

Mr. Judd to Count Von Bernstorff.

LEGATION OF THE UNITED STATES,
Berlin, February 17, 1862.

The undersigned has the honor to inform your excellency that a despatch from his government, under date of January 25, 1862, directs him to bring to the attention of his Majesty's government the case of a citizen of the United States by the name of Gustavus Wilhelmi, who, having since left the United States for Europe to arrange certain matters of private interest, was detained in Prussia, and is now serving in his Majesty's army at Magdeburg, and to solicit of your excellency a statement of the circumstances connected with the arrest and detention of the person referred to, with a view of endeavoring to obtain his discharge. In doing so the undersigned feels persuaded that the case which he has the honor thus to lay before your excellency will receive an early consideration and investigation, which he trusts will result in causing his Majesty's government to order the discharge of a citizen of the United States from involuntary service in the royal Prussian army.

Anticipating this result, which would furnish to his government a renewed manifestation of the friendship and cordiality that have always marked the conduct of his Majesty towards the United States, the undersigned avails himself of this opportunity to renew to your excellency the assurance of his very distinguished consideration.

N. B. JUDD.

His Excellency Count VON BERNSTORFF.

Mr. Judd to Mr. Seward.

[Extract.]

No. 19] LEGATION OF THE UNITED STATES,
Berlin, February 28, 1862.

SIR: In my last despatch, No. 18, I advised you of my action in the matter of Gustavus Wilhelmi, and sent a copy of my note to the minister of foreign affairs. I enclose herewith a copy of the reply of Count Bernstorff to that note, and also my response thereto, marked respectively one and two; and I would suggest that you ask the party who made the complaint to the department for

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information upon some or all of the following questions, propounded by Count Bernstorff, viz:

1. The place of nativity of Gustavus Wilhelmi.
2. At what place in Prussia he was arrested.
3. In what division of the Prussian army he has been enrolled at Magdeburg.

The garrison stationed there is some fifty thousand strong, and you will understand how difficult it is to trace a private in such a mass of men. I would also suggest that evidence of Wilhelmi's citizenship be forwarded, unless the department authorize the statement of that fact upon its responsibility; and that his friends, if they are in possession of the facts, furnish evidence upon the following points: The age of Wilhelmi, when he emigrated, and when he had a permit of emigration. It would aid the matter for them to furnish such information.

This question is assuming an importance here that will demand of our government, at the earliest practicable day, a peremptory position towards the governments of Germany. We cannot allow our citizens to remain in the Prussian army, or in that of other German states, nor can we afford to ask their discharge therefrom as a matter of grace or favor.

The right of expatriation must be insisted upon in all cases where the military obligation or duty has not attached by an actual summons for service, and the protection to the citizens of the United States under our treaties with the Prussian and other German governments ought to be enforced. Large numbers of Germans, some of whom have actually seen service in the war against the rebellion, are coming to Germany, and the demands for protection by the legation are very frequent. I have in all cases advised the parties of the risk that they are about to encounter, and promise them all the aid that is in my power. I have adopted a course of proceeding that has already saved several parties from the grasp of the authorities. Parties arriving at their homes, the passports issued to them by the United States government are demanded of them for deposit by the local police—the police believing that so long as they retain the passports they are sure of the parties when they want them. I have advised the young men that if they come to Berlin I have authority to give them passports. * * I cannot shut my eyes to the fact that our present position has an effect upon the potency of demands that may be made upon the European governments, notwithstanding such power may be friendly; and I am consoled with the belief that our darkest days are over, and that the opinions and desires of our government will soon be heeded on this side of the ocean.

The case of Peter Wolter, which you find alluded to in my last note to Count Bernstorff, is that of a citizen of the United States threatened with expulsion from Prussian territory. I presented his papers and his remonstrance in person to Count Bernstorff, and expect a favorable disposition of the case; a detailed statement of it to the department will be furnished if it becomes necessary. Awaiting a decision in the matter I forbear doing so.

* * * * * *

I have the honor to be your obedient servant,

N. B. JUDD.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Count Bernstorff to Mr. Judd.

[Translation.]

BERLIN, *February* 22, 1862.

In answer to the wish expressed in the note of the 17th instant, the undersigned is ready to institute an investigation of the circumstances under which

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the United States citizen, Gustave Wilhelmi, was forced into the Prussian army. In the mean time it would facilitate the investigation greatly to find out in what division of the army the said Wilhelmi has been put, where he was arrested, and his last place of abode in Prussia.

The undersigned is ever ready to give Mr. N. B. Judd all the information that can be had in the case, and accepts the occasion, &c., &c.

BERNSTORFF.

Mr. N. B. JUDD, *&c., &c., &c.*

Mr. Judd to Count Bernstorff.

LEGATION OF THE UNITED STATES,
Berlin, February 27, 1862.

The undersigned has the honor to acknowledge the receipt of the note of his excellency Count Von Bernstorff, minister of state and of foreign affairs, in relation to Mr. Gustavus Wilhelmi, dated 22d of February instant. The despatch from the Secretary of State of the United States, the honorable William H. Seward, directing the undersigned to bring the case of Wilhelmi to the attention of his Majesty's government, stated the fact that a naturalized citizen of the United States, by name Gustavus Wilhelmi, had been incorporated into the Prussian army at Magdeburg. The undersigned has no further information, and cannot, therefore, furnish the information that your excellency requires in order to facilitate the investigation; still, he hopes that it may be in the power of the proper department of his Majesty's government to ascertain the condition of Wilhelmi, and give the undersigned the information asked for in his former note.

The undersigned begs leave to call the attention of his excellency to the matter of Peter Wolter, whose papers were presented personally to his excellency, with the necessary explanations; and also to a communication relating to the matter of Jacob Spandau and Adolph Katz, and asks as early action as the cases will permit.

The undersigned avails himself, &c.

N. B. JUDD.

His Excellency Count VON BERNSTORFF,
Minister of Foreign Affairs.

Mr. Seward to Mr. Judd.

[Extract.]

No. 26.] DEPARTMENT OF STATE,
Washington, March 10, 1862.

SIR: Your despatch of the 17th of February (No. 18) has been received. I commend your diligence in the cases of Spandau and Katz, and the one more recently brought to your attention, of Gustavus Wilhelmi, and hope that your efforts for the release of those individuals may not be unsuccessful. It is very desirable that this question of enforced military service, so fruitful of annoyance, and so likely, if allowed to remain open, to retard the growth of that firm and cordial friendship which has always subsisted between the United States and Prussia, should be set at rest; and you will omit no opportunity to further the object. The disposition of Baron Von Roenne and Professor Tellkamp encourages us to hope that, through their influence, some legislative action upon the subject may, ere long, be initiated in the Prussian chambers. * * *

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

NORMAN B. JUDD, Esq.,
Envoy Extraordinary, &c.

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Mr. Judd to Mr. Seward.

[Extract.]

No. 20.] LEGATION OF THE UNITED STATES,
Berlin, March 14, 1862.

SIR: * * * * * * * * *

Accompanying my despatch No. 19 I sent the department a copy of my communication to Count Bernstorff in relation to the case of Gustavus Wilhelmi, and again calling his attention to the cases of Wolter, Katz, and Spandau. A reply to that communication has been received, a copy of which is annexed, marked No. 1.

It is impossible to hurry this government either by personal solicitations or written communications, and I am compelled to wait its slow movements, even upon questions addressed to its courtesy.

* * * * * * * * *

I have the honor to be your obedient servant,

N. B. JUDD.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington.

No. 1.

Count Bernstorff to Mr. Judd.

[Translation.]

BERLIN, *March* 4, 1862.

The undersigned has the honor most respectfully to inform the envoy extraordinary and minister plenipotentiary of the United States of North America, Mr. N. B. Judd, in reply to his esteemed note of the 27th ultimo, that the minister of war has been requested to furnish explanations on the business connected with the placing of a naturalized citizen of the United States of North America, Gustave Wilhelmi in the Prussian military service at Magdeburg. Meanwhile the undersigned most respectfully reserves for a further communication the result of this step. He at the same time remarks that in regard to Peter Wolter there has come from the minister of the interior, by telegraph, an order to suspend *ad interim* the banishment of this individual, and also a further report from the proper authorities in relation to the special circumstances of this case. Upon the affairs of Jacob Spandau and Adolph Katz, they write, in consequence of the esteemed note of Mr. Judd of the 15th instant, that their consideration is still before the regular authorities. The undersigned meantime will not delay, so soon as one or the other of the before-mentioned matters has reached its due solution, to place the minister in knowledge of the result, and avails himself in the meanwhile of this occasion to renew to him the assurances of his most distinguished consideration.

BERNSTOFF.

Mr. N. B. JUDD, *Envoy, &c.*

No. 2.

Mr. Judd to Count Von Bernstorff.

The undersigned has the honor to call the attention of his excellency Count Von Bernstorff, his Majesty's minister of foreign afiairs, to two cases in which he believes the local authorities at Heinsberg Regierungs, Bezork-Aachen, are about to violate the rights guaranteed to citizens of the United States by the treaties between it and the government of his Majesty.

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Two citizens of the United States, Charles Dallye and Eugene Dallye, are now residing at Heinsberg aforesaid, engaged largely in business as manufacturers of silk; and the chief consumption of the products of their manufactory has been in the United States. And their business requires them, in the language of article first of the treaty of May 1, 1828, "to sojourn and reside in the territory of Prussia to attend to their affairs." Charles Dallye was born at Heinsberg aforesaid; on the 10th of March, 1851, a permit of emigration to the United States was issued by the royal Prussian Regierung and by virtue of it he was discharged from all liability as a Prussian subject. The original certificate under the official seal of the royal Regierung aforesaid is now in the possession of the undersigned. The said Charles Dallye emigrated to the United States, and having resided therein the term required by the laws thereof, on the 17th day of June, 1859, he became a citizen of the United States, assumed the obligations incident thereto, and is entitled to the protection not only of its laws, but also to the rights guaranteed to citizens of the United States by its treaties with foreign nations. The official evidence of his citizenship is now in the possession of the undersigned. He returned to Prussia under a passport issued by the government of the United States to him as a citizen thereof, which document also is now in the possession of the undersigned.

Eugene Dallye, the other party named, was born at Heinsberg. On the 15th of March, 1851, he also received a permit of emigration; the original of which, dated on that day with the official seal of the royal Prussian Regierung attached thereto, is now before the undersigned. He became a citizen of the United States on the 28th of February, 1855, and afterwards returned to Prussia under a passport granted to him by the government of the United States. Evidence of his citizenship and his bearing of the passport as such citizen are now in possession of the undersigned. On the 19th day of February last, the mayor of Heinsberg, by direction of the landrath for that district, notified both of the parties that they must leave the kingdom of Prussia within three weeks from that date; that time will expire on the 12th of March instant, and the undersigned has thus specifically referred to the documents in his possession in order that his Majesty's government might have the assurance of the accuracy of the facts and suspend immediately the order for the expulsion pending such investigation as the government of his Majesty may deem necessary in the case. The Eugene Dallye above named is the same person who was ordered to leave the kingdom in the year 1857, and about whose case a correspondence was had between the Prussian government in December, 1857, and in January, 1858.

He then left Prussia, but returned in 1860, and has continued to reside therein until the present time, having in every respect obeyed the laws of Prussia, and demeaned himself as a good and orderly resident. The reason assigned for the expulsion of these young men from Prussia is the belief or opinion on the part of some officers of his Majesty's government at Heinsberg and Aachen that the permits of emigration were originally obtained to avoid the performance of military duty. The official act of his Majesty's government had divested these men of Prussian nationality.

The government of the United States received them as citizens after they had ceased to be Prussian subjects. The government of Prussia has by treaty consented to the residence of citizens of the United States within the kingdom of Prussia for the purposes of trade and commerce, and so long as they observe its laws and demean themselves as peaceable and orderly residents, they are entitled to protection; and that, Prussia has by treaty agreed to give. The government of the United States makes its treaties with foreign powers the supreme law of the land, and the undersigned supposes such to be the rule in the kingdom of Prussia, and that whenever a citizen of the United States seeks the rights and claims the protection of such treaties, there will be no effort to avoid

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the proper and legitimate effect of such treaties in order to remedy a mistake, if any may have occurred, in granting permits of emigration.

In asking for its citizens the rights guaranteed by treaties, the United States made no distinction between native-born and naturalized, nor can they allow that distinction to be made by other nations, and they claim that in meting out rights and protection, the inquiry is not to be made whether the party was born in the United States, Prussia, England or France. "Are they citizens of the United States?" is the only question.

Two acts have occurred in fixing the status of these two men:

1. By order of the Prussian government they were divested of all Prussian nationality.

2. By act of the government of the United States they have become American citizens. And it follows as a consequence that there are no political duties to the government of Prussia for the omission of which the party can be punished; and the government of the United States owes to them its protection in the enjoyment of their rights, a part of which is peacefully "to sojourn and reside in Prussia to attend to their affairs." The protection necessary to the enjoyment of this right we ask the government of his Majesty to give under the treaty above referred to.

Hoping that his Majesty's government will concur in the views above expressed as to mutual obligations, the undersigned has the honor to renew to his excellency the assurance of his distinguished consideration.

N. B. JUDD.

Mr. Judd to Mr. Seward.

[Extract.]

No. 21.] LEGATION OF THE UNITED STATES,
Berlin, March 27, 1862.

SIR: I have the honor to acknowledge the receipt of department despatch No. 26, dated 10th March, 1862.

I have omitted no opportunity to urge the Prussian government to the acknowledgment of the correctness and justice of the position of the government of the United States in regard to the question of enforced military service, both upon the general principle as well as in the several actual instances that have arisen and are now pending; and you have well characterized the question as "fruitful of annoyance and likely, if allowed to remain open, to retard the growth of that firm and cordial friendship which has always subsisted between the United States and Prussia." My efforts, earnest and courteous though they have been, remain unavailing. * * * *

I have the honor to be, sir, your obedient servant,

N. B. JUDD.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Mr. Judd to Count Von Bernstorff.

No. 1.] LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, March 27, 1862.

The undersigned has the honor to lay before his excellency Count Bernstorff the facts in the case of Eugene Wiss, of which he made a verbal explanation yesterday.

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Dr. George Edward Wiss, the father of Eugene Wiss, left Berlin in the year 1848, a permit of emigration having been issued to him by the royal Prussian Polizer Præsidium, dated Berlin, October 23, 1848. Eugene, his son, was then six years old, and was born out of wedlock. His mother, Minnie Dameron, went with the father, and upon their arrival in the United States they were legally married, which act legitimated the son.

In 1855 or 1856 the father, George Edward Wiss, became a citizen of the United States, and the son by that act followed the condition of the father. In September, 1859, Eugene came to Berlin for educational purposes, having a passport from the government of the United States for his protection. That passport was surrendered to the police authorities at Berlin, and an "aufenthalt's karte" issued to him, which has been renewed at the expiration of every six months during his residence in Berlin.

On the 19th or 20th of March, instant, the police authorities notified Eugene Wiss that he must, on the 9th of April next, present himself to the authorities to be enrolled into the army of his Majesty. There can be no pretence that this child left Prussia to avoid military service. No duty in that respect had attached to him. The father went with the permission of the government. The son by the act of the father became a citizen of the United States long before any obligation could possibly devolve upon him under the laws of Prussia.

Dr. George Edward Wiss, the father, is now an officer under the government of the United States, being its consul at Rotterdam, in Holland.

The undersigned supposes that the action of the police authorities in giving the notice was done without full knowledge of the facts as the undersigned has set them forth, and he hopes that his excellency will cause an immediate examination of the facts to be made, and if found correctly stated, that the order be revoked.

Consul Wiss writes to the undersigned with considerable feeling at the threatened interruption of the studies of his son, and the undersigned wishes very much that he might receive his excellency's reply at an early day and before the 9th of April next.

The undersigned has the honor to renew to his excellency the assurances of his high consideration.

N. B. JUDD.

His Excellency Count VON BERNSTORFF,
Minister of Foreign Affairs, &c.

Mr. Seward to Mr. Judd.

[Extract.]

No. 27.] DEPARTMENT OF STATE,
Washington, April 3, 1862.

SIR: Your despatch of February 28 (No. 19) has been received. I fully approve your proceedings in regard to the cases of the naturalized American citizens of German birth who have solicited your protection from the laws of Prussia, which require them to perform military service.

Your views upon the general subject involved in those cases are very just, as well as patiotic, and under circumstances different from those with which we are surrounded it would be a pleasant duty to authorize a more decided activity on your part in regard to it. It is obvious, however, that the subject is one which deeply affects the pride and natural sensibility of our own country, and when it shall once have been opened we must proceed with such firmness as would probably involve an inquiry into the probable consequences of a failure in ob-

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taining the assent of the Prussian government to the positions we should put forth. * * * * * *

Measures will be taken to procure the information in the case of Gustavus Wilhelmi which the Prussian government requires, and it will be transmitted to you without delay. * * * *

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

NORMAN B. JUDD, Esq.,
Envoy, &c., Berlin.

Mr. Judd to Mr. Seward.

No. 22.] LEGATION OF THE UNITED STATES,
Berlin, April 8, 1862.

SIR: I have the pleasure of informing you that the government of Prussia has discharged Jacob Spandau and Adolph Katz from the army. The decision of the government was communicated to me in a note, a copy of which accompanies this despatch. Their discharge has brought to light another case in the same Prussian regiment that Spandau and Katz were in. The man's name is Morris Kirschbaum, and he writes me that he has been a year and a half in the Prussian service, and did not write me before because he thought it would do no good. If there is no other reason for silence than that, he has demonstrated that patience is a virtue. I have written to him for such further facts as are essential to a proper understanding of his case.

I have the honor to be your obedient servant,

N. B. JUDD.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Count Bernstorff to Mr. Judd.

[Translation.]

BERLIN, *April* 7, 1862.

The undersigned, in pursuance of his note of the 4th of last month, has the honor to inform the envoy extraordinary of the United States, N. B. Judd, esquire, that in consideration of the desire which he, in the name of the government of the United States, was pleased to express in his note of the 15th of February last, his Majesty the King, the most august master of the undersigned, has, by his sovereign order of the 17th of March last, most graciously consented to direct that the two Prussians, Jacob Levin Spandau, of Ryczywol, and Adolph Katz, of Bogazen, who had become citizens of the United States, be immediately discharged from Prussian military service.

The superior provincial authorities have accordingly been furnished with the necessary directions. The undersigned avails himself of this opportunity to renew to Mr. N. B. Judd the assurances of his most distinguished consideration.

BERNSTORFF.

Mr. N. B. JUDD, &c.

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Mr. Seward to Mr. Judd.

No. 28.] DEPARTMENT OF STATE,
Washington, April 14, 1862.

SIR: Dr. Guadendorff, to whom an extract of your despatch No. 19 was communicated on the 2d instant, has replied in a letter of which I enclose a transcript. The information it gives concerning Gustavus Wilhelmi is so full and complete, except as regards the character of the passport or permit with which he left Prussia, that we hope it may enable you at least to identify him.

I am, sir, your obedient servant,

WILLIAM H. SEWARD

NORMAN B. JUDD, Esq., &c., &c., *Berlin.*

SCHENECTADY, N. Y., *April* 5, 1862.

SIR: Your kind letter of the 2d instant is duly received, and herewith I express my best thanks to you. In relation to the matter of Gustavus Wilhelmi I send you annexed the answers for the questions mentioned as far as I can obtain them.

Asking your excellency once more to pay your kind attention to this matter, I remain, sir, your most obedient servant,

H. GUADENDORFF, *M. D.*

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington.

Gustavus Wilhelmi.

1. Was born in Burg, a small city in Germany, in the vicinity of Magdeburg.
2. He was arrested for military service in the same place, Burg, about three days after his arrival from here, September, 1861.
3. He is enrolled at Magdeburg in the 26th regiment of infantry, first company. He is in room No. 25 of the citadel in Magdeburg.

About his papers as an American citizen I do know positively that he had these papers taken, for he gave his votes in this city several times; also he had, as far as I know, a passport as an American citizen, which was given to him last August, 1861. Gustavus Wilhelmi is 25 years of age; came to this country in March, 1854. I do not believe that he had a permit of emigration; he had only a passport to Hamburg.

The above given facts I collected from reliable sources, and am perfectly confident to be true. There may, though, be perhaps a little mistake about his age, &c., &c.

H. GUADENDORFF.

Mr. Judd to Mr. Seward.

[Extract.]

No. 23.] BERLIN, *April* 19, 1862.

SIR: Count Bernstorff, minister for foreign affairs, has answered my note asking for information about Gustavus Wilhemi, to whose case your despatch No. 24, dated January 25, 1862, called my attention.

Herewith I send, marked No. 1, a copy of that answer.

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It presents no new features, and is only an application of the extreme Prussian doctrine as now carried out against citizens of the United States, and you will perceive from the note that Count Bernstorff falls back upon the note of his predecessor in office, dated November 5, 1860, a copy of which accompanied Minister Wright's despatch No. 15, dated November 10, 1861. I advised you in my last despatch, No. 22, that the discharge of Spandau and Katz had brought to notice the case of Morris Kirschbaum. I send you herewith, marked No. 2, a copy of his note in reply to mine, asking for information. That statement shows that he had been notified to render himself for military service before he left Prussia, that he had arrived at the full age for enrolment, and that he returned to Prussia with no certain intention to leave again.

I have addressed a communication to Count Bernstorff asking for the release of Kirschbaum and Wilhelmi, a copy of which is annexed, marked No. 3.

* * * * * * *

I have the honor to be, sir, your obedient servant,

N. B. JUDD.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Count Bernstorff to Mr. Judd.

[Translation.]

No. 1.] BERLIN, *April* 16, 1862.

SIR: The undersigned, pursuant to his note of the 4th of March last, has the honor to communicate to the envoy extraordinary and minister plenipotentiary of the United States the following regarding the enrolment of the joiner Henry Charles Gustavus Wilhelmi into the Prussian military service: The said Wilhelmi was, on the 12th of September, 1835, born a Prussian subject, at Burg, near Magdeburg. According to the recruiting regulations, he would on the 1st of October, 1855, have been obliged to enter the army for a service of three years' duration. Shortly before that period expired, in the year 1854, he absented himself clandestinely, without a passport and without having applied for dismissal from his condition as a Prussian subject, from Prussia, and went to America, where, on the 16th of June, 1859, he became, in the State of New York, a citizen of the United States. By thus entering, however, into foreign citizenship, the condition of Wilhelmi as a Prussian subject was not changed. He particularly continued under obligation to enter the military service required by the laws of Prussia. When, therefore, in October, 1861, he returned to his home, he was drafted for service, and on the 30th of October, 1861, enrolled into the first Magdeberg infantry regiment, No. 58, where he is still serving.

Under these circumstances, the wish expressed in the note dated February 17, 1862, of seeing Wilhelmi dismissed from the Prussian military service, cannot be acceded to.

The undersigned avails, &c.

BERNSTORFF.

No. 2.

Mr. Kirschbaum to Mr. Judd.

[Translation.]

GLOGAU, *April* 16, 1862.

SIR: I received yours of the 11th instant, and I thank you very much for the promise you give me that you will do all you can for me.

In answer to your questions I give you the following facts:

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1. I was born in Polajewo kreis Obornick, Regierungsbezirk, Pozen, on the 2d of December, 1826.

2. I was twenty-two years of age when I left Prussia, and I did not go directly to America. I remained in Hamburg one year.

3. I had previous to my emigration a pass to travel in Prussia on my trade, as I was a tailor and travelled on my trade. I had no pass of emigration.

4. I had not been in the army before leaving, but I had been twice present for enrolment and a third time when in Hamburg I failed.

5. I returned to Prussia in 1860; and my intention was to remain here an uncertain length of time.

6. I was notified when I came to the place of my birth that I would have to serve in the army, and I was taken from there in a transport and brought to Glogau and immediately placed in a regiment. I hope you may be successful and have me released also from the ties which have bound me.

Your most obedient servant,

M. KIRSCHBAUM.

Hon. N. B. JUDD.

No. 3.

Mr. Judd to Count Bernstorff.

LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, April 19, 1862.

The undersigned has the honor to acknowledge the receipt of his excellency Count Bernstorff's communication, dated 7th April instant, announcing that his majesty the King has ordered that Jacob Spandau and Adolph Katz, former Prussian subjects, but now citizens of the United States, be discharged from the Prussian military service.

The appeal to the courtesy of his Majesty, which has been so cordially responded to by this discharge of those two persons, will afford the government of the United States very great satisfaction, not only because it has relieved two of its citizens from serious trouble, but as an evidence of the friendly feeling of his Majesty.

The release of Spandau and Katz brought to the knowledge of the undersigned the fact, that in the same regiment in which they had been serving was another citizen of the United States, Moritz Kirschbaum, who had for the past nineteen months been doing service in the army of his Majesty.

The facts as stated to the undersigned are as follows:

He was born at Polajewo kreis Obornick on the 2d of December, 1826; that he emigrated to the United States in 1849 or 1850, and after remaining there the time required by its laws, he was on the 1st of November, 1856, admitted to the rights of citizenship. Kirschbaum was a tailor by trade, and while travelling with a wanderbuch, went to Hamburg and thence to the United States.

He returned to Prussia in the year 1860, and was immediately notified and incorporated into the army, and is now serving in the first company of the third Posen infantry regiment, No. 58, at Gros Glogau.

Mr. Katz tells that Kirschbaum, who is now thirty-six years old, is the only son and supporter of a widowed mother, in his native village; that these facts have here before been presented to his Majesty the King, who graciously ordered his discharge if the facts were true. That order has not been executed.

* * * * * * *

The undersigned has also the honor to acknowledge the receipt of his excellency's communication relating to the case of Gustavus Wilhelmi, dated April 16, 1862, from which it appears that another citizen of the United States is serving in the army of Prussia.

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The undersigned is instructed by his government to say, that it would be received as a renewed evidence of the friendly feeling of his Majesty if the above named Wilhelmi and Kirschbaum could be released from the army of his Majesty.

The undersigned encloses herewith a copy of a petition of Mr. J. Bolting, a merchant in the city of New York, asking that whatever obligations may exist against him as a former Prussian subject may be released.

He was born in Prussia in 1820, emigrated to the United States in 1840, and has resided there for twenty-two years past. Wishing to travel in Europe and to visit Prussia with his wife, he, in December last, forwarded to the Department of the Interior, through the Prussian consul general at New York, the petition above referred to. No reply having been received, the undersigned asks that the attention of his Majesty's government be called to his petition.

* * * * * * *

The undersigned avails, &c.

N. B. JUDD.

His Excellency Count VON BERNSTORFF, *Minister, &c.*

Mr. Judd to Mr. Seward.

[Extract.]

No. 25.] LEGATION OF THE UNITED STATES,
Berlin, May 6, 1862.

SIR: I have the honor to acknowledge the receipt of your despatch No. 28, dated April 14, 1862, containing a statement furnished your department in the matter of Gustavus Wilhelmi.

The facts claimed by the Prussian government, and upon which their refusal to discharge him is based, are set forth in a communication from the minister of of foreign affairs, a copy of which accompanied my despatch No. 20, dated April 19, 1862. In the same despatch you were advised that I have asked for his discharge in the same manner in which that of Spandau and Katz was obtained.

I send herewith a copy of the reply of the minister of foreign affairs in the case of Eugene Wiss; I have sent a copy of that communication to his father, Dr. Wiss, our consul at Rotterdam, who will no doubt supply the document therein demanded, and thus secure Eugene against any further molestation.

* * * * * * *

I have the honor to be, your obedient servant,

N. B. JUDD.

Hon. WILLIAM H. SEWARD,
Secretary of State.

[Translation.]

BERLIN, *March* 3, 1862.

In acknowledgment of your esteemed notes of 27th March and April of this year, the undersigned does himself the honor most respectfully to make known to the envoy extraordinary and minister plenipotentiary of the United States of North America, Mr. N. B. Judd, that the competent royal authorities for administration of national affairs have been until now making investigations whether Mr. Otto Wiss is acknowledged as the legitimate son, born in Winslow, of Dr. Edward Wiss, and whether, moreover, he would then be exempt from military service in Prussia. It would much facilitate the deliberations of the council to

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produce a certificate of the marriage of Dr. Wiss with Wilhelmini Matte Vorn Dameron, and a judicial or national declaration from Dr. Wiss that he acknowledges the paternity of Otto Eugene as the son of his present lawful wife. For the presentation of such documents here an extension of time of three months is allowed; during their course Otto Eugene Wiss is relieved from military duty.

Until the undersigned has the honor to announce, very respectfully, advices of the liberation of Dr. Wiss, he embraces this occasion to renew to the minister the assurance of his most distinguished consideration.

GRUNER.

The Minister for Foreign Affairs ad interim.

Mr. N. B. JUDD, &c., &c., &c.

Mr. Seward to Mr. Judd.

[Extract.]

No. 34.] DEPARTMENT OF STATE,
Washington, July 21, 1862.

SIR: Your despatch of June 19th, No. 27, has been received. I have read with interest the account of your conversation with Baron Reitzenstein, the minister of Hanover, on the subject of compulsory military service by citizens of the United States in the armies of the states of the German confederation. The views of this government were correctly stated by you, and the position we have assumed will be maintained. The question is one, however, which for the present we must suffer to remain undisturbed; not because we feel less interest in it than has been felt heretofore, but because the attention of the government and people of this country is now engrossed with weightier matters. When a fitting time shall arrive it will be taken up and discussed with the powers interested in a spirit, let us hope, that will insure a prompt and satisfactory disposition of it.

Your proceeding in the case of John Philip Geerken is approved. With regard to that of John Mäuschke, to which your attention has been called by the consul at Leipsic, I do not perceive how you can properly do more than you propose to do, and I trust that your informal representation of the circumstances to Count Hoenthal, the minister of Saxony, may have the desired effect.

* * * * * * * *

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

NORMAN B. JUDD, Esq.,
Envoy, &c., Berlin.

Mr. Kreismann to Mr. Seward.

[Extract.]

No. 2.] UNITED STATES LEGATION,
Berlin, August 6, 1862.

SIR: * * * * * * * * *

In February last Mr. Judd had occasion to bring to the attention of his Majesty's government the case of one Peter Wolter, and he informed you of the fact in his despatch No. 19, dated February 28, 1862. No detailed statement of the case having then been submitted, I beg leave to do so now. The said

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Wolter, a former Prussian subject, went to the United States, and on the 30th day of March, 1861, in the court of common pleas for the city and county of New York, made his declaration to become a citizen of the United States. A full permission to emigrate to the United States, releasing him from his allegiance as a Prussian subject, had been granted him by the royal authorities, under date of 30th January, 1861. Some time during the summer of 1861 Wolter returned to Prussia for the temporary purpose to arrange some business for his father, at the latter's residence, in the village of Friesdorff, near the city of Cologne. After having been permitted to remain there undisturbed for several months, he was, on the 11th day of February last, notified to leave the kingdom of Prussia within three days, which period, however, on the application of his father, was extended three days longer, the only reason assigned for this threatened expulsion being, as stated by Wolter, the fact of his not being properly legitimated. Mr. Judd succeeded in getting proceedings suspended until an investigation of the case could be had, and was, by Count Bernstorff, led to believe that a result favorable to Wolter remaining in the country would be arrived at. A few days since a letter from Wolter advised this legation that he had been notified either to file a petition to become a Prussian subject within two weeks or leave the kingdom. Being unwilling to return to Prussian allegiance, he has determined to accept the latter alternative, and will, for the present, remove to Belgium. It is true Wolter is not yet a citizen of the United States, but, under the doctrine of Secretary Marcy, laid down in the Koszta case, he is entitled to our protection. And I feel it to be my duty to report the case to you for such instructions and directions as you may deem proper and expedient to convey. No official information from the minister of foreign affairs of the decision of the Prussian government in the case has reached this legation.

I have the honor to be your obedient servant,

H. KREISMANN.

Hon. WM. H. SEWARD,
Secretary of State.

Mr. Kreismann to Count Bernstorff.

LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, August 5, 1862.

In his note of the 3d of May, 1862, his excellency Count Von Bernstorff, state minister and minister of foreign affairs, had informed the envoy extraordinary and minister plenipotentiary of the United States of America, Mr. N. B. Judd, that the documents submitted by the latter in the case of Eugene Wiss were not considered sufficient to establish the claim of said Eugene Wiss of being exempted from performing military service in the army of his Majesty, and had demanded as additional proofs the certificate of marriage of Dr. Edward Wiss, the father, with Wilhelmini Dameron, and a judicial or notarial acknowledgment on the part of the said Dr. Wiss of his paternity of Eugene Wiss.

In compliance therewith, Mr. Judd, on the 21st May, 1862, had the honor to submit to his excellency Count Bernstorff the additional proofs demanded.

No reply having since been received whether said documents were found satisfactory, the undersigned has the honor to recall the matter to the attention of his excellency, and in the interest of young Wiss to solicit an early response.

Meanwhile he avails himself of this occasion to renew to his excelleney the assurance of his most distinguished consideration.

H. KREISMANN.

His Excellency Count VON BERNSTORFF, *&c., &c., &c.*

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Mr. Kreismann to Mr. Seward.

[Extract.]

LEGATION OF THE UNITED STATES,
Berlin, September 4, 1862.

SIR: * * * * * * *

Accompanying this I beg leave to submit a copy of a *note verbale* from the minister of foreign affairs, announcing the final and satisfactory disposition of the case of Eugene Wiss—the young man himself having left Berlin with the intention of returning home and entering our army. A copy of the note has been forwarded to his father at Rotterdam.

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I have the honor to be your obedient servant,

H. KREISMANN.

Hon. W. H. SEWARD,
Secretary of State, Washington, D. C.

[Note verbale.—Translation.]

BERLIN, *September* 2, 1862.

Pursuant to the note verbale of the 9th of last month, the royal Prussian ministry of foreign affairs has the honor to inform the legation of the United States of America that, according to a communication just received by it from the royal ministries of war and of the interior, the army commissary, Privy Counsellor Pehlemann, here has been directed to abstain from the enrolment for military duty of Eugene Wiss, who, on the 9th of April last, was summoned to appear before the royal enrolment commission, and, as having lost his quality as a Prussian subject, to strike his name from the enrolment lists.

Mr. Seward to Mr. Kreismann

No. 3.] DEPARTMENT OF STATE,
Washington, September 8, 1862.

SIR: Your despatch No. 2, of the 6th of August, has been received. It refers mainly to the cases of Eugene Wiss and Peter Wolter, your proceedings with regard to which are approved. The former, it seems, is in a fair way of being satisfactorily disposed of. With respect to the latter, I do not at present deem it expedient to furnish you with any instructions.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

H. KREISMANN, Esq., *&c., &c., Berlin.*

Mr. Judd to Mr. Seward.

[Extract.]

No. 31.] LEGATION OF THE UNITED STATES,
Berlin, October 10, 1862.

SIR: * * * * * * *

Two additional cases of the impressment of our citizens in the army of Prussia have come to my knowledge since my last despatch: Louis Furstenheim, who

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is serving at Custrim, and Benno Oscar Bruno Apelt, who is serving at Posen. I have presented their cases to the Prussian government, and ask their discharge.

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I have the honor to be your obedient servant,

N. B. JUDD.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Mr. Judd to Mr. Seward.

[Extract.]

No. 38.] LEGATION OF THE UNITED STATES,
Berlin, December 20, 1862.

SIR: The Prussian government has at last discharged Moritz Kirschbaum from its army. Annexed is a copy of the communication advising me of its action

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I have the honor to be your obedient servant,

N. B. JUDD.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

[Translation.]

BERLIN, *December* 14, 1862.

In response to the respective notes of April 19 and October 9 of the current year, the undersigned has the honor to inform the envoy extraordinary and minister plenipotentiary of the United States of America, that by means of an order dated December 4, 1862, his Majesty the King has most graciously deigned to grant the discharge of Moritz (Moses) Kirchbaum, of Polajeur, district of Obormit, Regrirungs Besirk, Posen, who has been admitted to a citizen of the United States of America.

The undersigned avails himself of this occasion to renew the assurance of his most distinguished consideration.

The Minister of Foreign Affairs,
(By direction,) VON THILE.

Mr. N. B. JUDD, *&c., &c., &c.*

Mr. Judd to Mr. Seward.

[Extract.]

No. 40.] LEGATION OF THE UNITED STATES,
Berlin, February 2, 1863.

SIR: The Prussian government has discharged from its military service Lesser Furstenheim and Benno Oscar Bruno Apelt. The terms are shown in the communication of the Foreign Office to this legation. A communication from the uncle of Apelt asks that our government proceed further, and procure an unconditional discharge from all of the pretended obligations that Prussia may in the

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future claim of him. I have explained to him the peculiar position in which we now are, and that it would be useless now to press the Prussian government further; that his nephew being now in a position to return to the United States, he had better avail himself of the situation, and thus save himself and the government of the United States from further difficulty. In some of the cases where protection is asked, the parties have returned to Prussia evidently to remain permanently, expecting protection for all time to come from their naturalization papers. A temporary return for business or pleasure is much more easily dealt with than cases where the local authorities believe that the intention in returning is to become a resident of Prussia and claim an exemption from duties and obligations that all their neighbors and relatives are subjected to. Such a state of affairs excites the envies and jealousies of the local authorities, especially if, as is sometimes the case, a boastful parade is made of the immunities claimed.

* * * * * * * * *

I have the honor to be your obedient servant,

N. B. JUDD.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Baron Von Thile to Mr. Judd.

[Translation.]

BERLIN, *February* 1, 1863.

SIR: The undersigned has the honor to inform the envoy extraordinary of the United States of America, in reply to his note of October 9, 1862, that Benno Oscar Bruno Apelt, of Gorlitz, after having been, by medical testimony, pronounced unfit, for the present, for service, was, on the 10th of November last, discharged from active military service, and has been placed at the disposal of the enrolling commission. In regard to Lesser (not Louis) Furstenheim, of Custrim, his discharge from military service has been ordered, provided he does not signify his intention of permanently taking up again his residence in Prussia, but declare himself willing to leave the Prussian states and return to North America.

The Minister of Foreign Affairs,
VON THILE.

Mr. Judd to Baron Von Tell.

LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, January 27, 1862.

The undersigned has the honor to lay before his excellency Baron Von Tell, envoy extraordinary and minister plenipotentiary of his Royal Highness the Grand Duke of Mecklenburg-Schwerin, the following case of a citizen of the United States of America, with the request of bringing the same to the knowledge of his government; and he hopes that an examination of the case on the part of the government of the Grand Duke will result in staying the proceedings intended against the individual in question.

Alexander Kloss was born at Rostock, on the 10th of December, 1836. In the year 1853, when about 16 years of age, he emigrated to the United States of America and settled in the State of Texas, where, in the year 1858, he became a citizen of the United States.

In the year 1861, provided with a passport issued to him by the government

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of the United States, he started on a tour to Europe, and is at present staying at Rostock with his father, the Reverend Mr. Kloss, merely awaiting a favorable moment to return to his home in Texas. His visit, however, to his former home was by direction of the ministry of the interior of the Grand Duke, who caused him to be notified by the police authorities of Rostock that in the year 1857 he became subject to military duty in Mecklenburg, and that he, in consequence, must submit to a draft. He even sees himself in danger of losing, by being arrested for that purpose, his personal freedom.

These are the facts of the case as the same have come to the knowledge of the undersigned; and as it appears that Mr. Kloss, at the time of his emigration, was yet far removed from the period when, under the laws of Mecklenburg, he became subject to military duty, and that he is merely on a visit in his former home, the undersigned, as stated above, feels that he may indulge in the hope that the government of his Royal Highness the Grand Duke will abstain from drafting a citizen of the United States for military service in Mecklenburg.

The undersigned cheerfully avails himself of this occasion to convey to his excellency the assurance of his high consideration.

N. B. JUDD.

His Excellency BARON VON TELL, &c., &c., &c.

Mr. Seward to Mr. Judd.

[Extract.]

No. 49.] DEPARTMENT OF STATE,
Washington, March 7, 1863.

SIR: Your despatch of the 2d ultimo, No. 40, has been received. Your proceedings in the cases of Apelt and Kloss are approved, and your observations upon others of a similar class, especially with regard to those whose protection is invoked by parties who have returned to Prussia with the evident intention of remaining there permanently, are very just. It is easy to be foreseen that serious difficulties and embarrassments may arise, if the appeals of such persons for our protection against the operation of the military laws of Prussia should be indiscriminately pressed upon the attention of that government. Instances have occurred where Europeans who have become naturalized citizens of the United States have left the country, when their services were required, and returned to Europe to avoid needful military duty here, and then have invoked the protection of the United States to screen them from military duty there. Henceforth you will make no further applications in these military cases without specific instructions.

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I am, sir, your obedient servant,

WILLIAM H. SEWARD.

NORMAN B. JUDD, Esq., &c., &c., &c., *Berlin.*

Mr. Judd to Mr. Seward.

[Extract.]

No. 47.] LEGATION OF THE UNITED STATES,
Berlin, May 9, 1863.

SIR: I have the honor to report herewith two cases of enlistment in the Prussian army, as the facts therein have been laid before me. I have not yet brought

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them to the notice of the Prussian government, and desire your instructions whether to do so or not.

William Lade was born in Stettin on the 17th of November, 1839. He went to the United States in 1856, without a permit of emigration, simply provided with a Prussian passport from Stettin to Berlin and Hamburg. He established himself in business in the city of New York, and was married there. He was duly naturalized in the superior court of the city of New York, October 25, 1856. In October 1862, accompanied by his wife, he visited his native place, Stettin, was proceeded against by the authorities there, and impressed into the Prussian army, and is now serving in the first Pomeranian grenadier regiment, number two, stationed at Stettin. Accompanied as he is by his wife, his case is one of particular hardship. Consul Sundell, at Stettin, has reported the above facts to me.

Augustus Henry Jaenschke was born at Grunburg, in Silesia, June 19, 1838. In the year 1857 his father obtained a permit of emigration for himself, Augustus, and one other son. Augustus was then nineteen years old, and had been before the proper military commission to be examined as to his qualifications for military service. He was declared temporarily unfit, and dismissed for a subsequent examination. He thereupon obtained a passport for America, and started upon his journey, his father and brother remaining behind. After an absence in the United States of over five years, during which time, in 1862, he took the oath of allegiance to the United States at St. Louis, at the instance of his father he came here to arrange some matters of business. He was thereupon proceeded against, enrolled, and is now serving in the forty-sixth line infantry regiment, stationed at Posen. These are the facts as obtained from him. It is true, it does not appear that he actually became a citizen of the United States, although he took an oath of allegiance to them. But if he had a permit of emigration and a passport for America it would seem that in this case the enrolment can hardly be justified on the grounds upon which the Prussian government is wont to place it. If released, he promises at once to return to the United States. * * * * * * *

I have the honor to be your obedient servant,

N. B. JUDD.

Hon. W. H. SEWARD,
Secretary of State, Washington.

Mr. Seward to Mr. Judd.

No. 54] DEPARTMENT OF STATE,
Washington, June 6, 1863.

SIR: Your despatch of May 9, No. 47, has been received and submitted to the President of the United States.

In view of the present condition of the Union it is deemed inexpedient to instruct you to institute proceedings for obtaining the exemption of William Lade, Augustus Henry Jaenschke, and Alexander Kloss from the claims of the Prussian government for military service. Citizens of the United States, in the present emergency, ought rather to be at home upholding the government against domestic insurrection, than to be adding to its embarrassments by invoking the exercise of its authority for their special relief in foreign countries.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

NORMAN B. JUDD, Esq., *&c., &c., &c., Berlin.*

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Mr. Kreismann to Mr. Seward.

[Extract.]

No. 6.] LEGATION OF THE UNITED STATES,
Berlin, July 7, 1863.

SIR: * * * * * * * * *
In a late despatch Mr. Judd mentioned the case of Mr. Gustavus Kirchhof, of Chicago, formerly a subject of Prussia, now a naturalized citizen of the United States, who had applied to this legation to obtain for him permission to temporarily, and for purposes of business solely, return to Prussia, he having left it without having performed military duty. Mr. Judd having laid the matter before Herr von Bismarck, he was by him advised to have Mr. Kirchhof address a petition to the King. Mr. Judd so informed Mr. Kirchhof, who thereupon forwarded a petition. As it was couched in very respectful language I have transmitted it to the under-secretary of the foreign office, Herr von Thile, who conducts the business of that department during the absence of Herr von Bismarck, who still remains with the King at Carlsbad. I append a copy of my note accompanying the petition, marked A.

* * * * * * * * *

I have the honor to be, your obedient servant,

H. KREISMANN.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington City.

Mr. Kreismann to Herr von Thile.

LEGATION OF THE UNITED STATES,
Berlin, July 7, 1863.

SIR: The undersigned has the honor herewith to transmit to the under-secretary of state, Herr von Thile, a petition to his Majesty the King, which he prays the under-secretary of state to cause to be submitted to his Majesty at as early a period as shall be practicable. The legation of the United States of America has caused the petition in question to be presented in pursuance of the advice of his excellency the minister of foreign affairs, who promised his assistance in obtaining his Majesty's assent to the prayer of the petitioner. The undersigned avails himself of this occasion to offer to the under-secretary of state the assurance of his distinguished consideration.

H. KREISMANN.

HERR VON THILE,
Under-Secretary of State.

Mr. Kreismann to Mr. Seward.

[Extract.]

No. 7.] LEGATION OF THE UNITED STATES,
Berlin, July 20, 1863.

SIR: * * * I have been requested to lay before you the following case of Mr. H. Turcke, late a resident of the United States but now living within the limits of the kingdom. I scarcely think that his case is such as to entitle him to any intercession in his behalf on the part of the United States; and I have given him, therefore, no encouragement at all. But he insists that his

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case be reported to you, which, with your leave, I now do. Mr. Turcke has resided in the United States four years, during which period he declared it to be his intention to become a citizen thereof. He studied law at St. Louis and Cambridge, and claims to have received a license to practice as attorney at law at St. Louis. To regulate certain domestic affairs he returned, as he states, temporarily to Prussia and purchased an estate, such as are known here under the name of Rittergut. To complete the title and obtain possession of such an estate it is, under the laws of Prussia, required to take a certain oath. Turcke, considering said oath to be in conflict with the one he had taken in the United States when he declared his intention to become a citizen thereof, refused it, and addressed a petition to the House of Deputies on the subject. It was there referred to a committee, who reported that, in their opinion, the oath in question was in contravention of the constitution of Prussia, and could not be properly required of Turcke. The house, with the assent of the minister of justice, concurred in the report.

The court of the district, however, where the estate is situated, holding said oath to be legal and imperative, refused to perfect and complete the title, and for his refusal to take it, condemned Mr. Turcke to two months' imprisonment. Now, in view of the position which the government of the United States took in the case of Martin Koszta, Mr. Turcke, considering himself similarly situated, claims protection, and desires a diplomatic intercession in his behalf, so that the execution of the punishment against him may be stayed, the title to his estate be completed, and he be permitted to return to the United States. Involving, as this case does, judicial proceedings and decisions which I deem cannot well be interfered with, I have refused to take any steps until I shall have your instructions. * * *

I have the honor to be your obedient servant,

H. KREISMANN.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Mr. Seward to Mr. Kreismann.

[Extract.]

No. 2.] DEPARTMENT OF STATE,
Washington, August 11, 1863.

SIR: Your interesting despatch of the 20th of July, No. 2, has been received. Your views of the impropriety of diplomatic intercession in behalf of Mr. Turcke are entirely approved, and in all parallel cases that may arise you will lend no encouragement to the hope that the alleged grievances of an inchoate citizen of the United States, who has voluntarily subjected himself to the operation of Prussian laws, will at this time be made the subject of debate between the two governments. * * *

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

H. KREISMANN, Esq.,
Chargé d'Affaires, Berlin.

Mr. Kreismann to Mr. Seward.

No. 13.] LEGATION OF THE UNITED STATES,
Berlin, August 29, 1863.

SIR: I have the honor to acknowledge the receipt of your despatch No. 2, dated August 11, 1863. It is gratifying to find my views and course in the

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case of Mr. Turcke approved. The very next day after the receipt of your despatch that gentleman called at the legation to inquire about his case. He was informed of your instructions, and so the matter is disposed of.

Another inchoate citizen, Mr. Gustavus Oscar Hock, of San Francisco, California, who has resided in the United States ever since the year 1849, having by letter applied to this legation for protection against certain proceedings instituted against him in Saxony, under the laws of that state relating to military service, I at once informed him that having voluntarily subjected himself to the operation of the laws of Saxony, his alleged grievances could not at this time be made the subject of debate between the two governments. I trust that my action in the matter will meet with your approval.

I am, sir, your obedient servant,

H. KREISMANN.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Mr. Kreismann to Mr. Seward.

[Extract.]

No. 17.] LEGATION OF THE UNITED STATES,
Berlin, December 2, 1863.

SIR: * * * Applications for protection against claims to military service of naturalized citizens have lately been quite numerous. In nearly all of them the parties had come here from the United States, where the draft has been enforced; and it is so manifest that they left there to avoid the duties and obligations of an American citizen, and came here to enjoy the privileges and immunities as such, that I consider them not the least entitled to assistance. I have taken the liberty so to advise them, without first intruding upon your valuable time the details of their cases. I trust this course will meet with your approbation.

I am, sir, your obedient servant,

H. KREISMANN.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Mr. Judd to Mr. Seward.

[Extract.]

No. 64.] UNITED STATES LEGATION,
Berlin, May 4, 1864.

SIR: The annexed copies of papers will show you an application for assistance made by Abraham M. Israel on behalf of his brother, Mr. Simon Israel.

It appears from the statement that Simon Israel was born in Prussia, emigrated to the United States in 1853, was naturalized in California in 1860, and returned to Prussia in 1863, and has been put in the army of Prussia, where he is now serving. He was seventeen years old when he emigrated to the United States, and has resided there eleven years. He is a merchant, with a business now carried on by a partner in California. My letter will show that I have advised Mr. Israel of the instructions and position of our government at the present time, and the reasons for it; and I now await your further directions in the case. Prussia, now engaged in war, is not likely to be less exacting than in time of peace. * * * * * * *

I am, sir, your obedient servant,

N. B. JUDD.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington.

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Mr. Israel to Mr. Judd.

ROGASEN, *April* 25, 1864.

SIR: In behalf of my brother, who is a citizen of the United States, I may be permitted to call on your powerful protection and implore your kind intercession, which, since your stay in Berlin, you so obligingly and successfully have afforded to many other young men in like circumstances, thereby saving them from ruin and despair.

My brother, Mr. Simon Israel, is a native of the town of Chodziesen, province of Posen. In 1853 he emigrated to the United States, when he was only seventeen years of age, and according to the law of Prussia not yet subject to the military service. He resided in the States for eleven years; acquired his citizenship in California in March, 1860, as you may please to ascertain by the certificate hereby annexed.

About six months ago business affairs brought him over to Europe, and by the way he paid a visit to relations and friends in his native town. But scarcely had the police notice of his arrival when he was taken up and handed over to the military authority of the country, and by them sent to the city of Stettin, where he is enrolled to serve his time of three years in the fourth company, Pomeranian regiment number fourteen.

There he is now, torn away from his business, which he had no time to settle—neither in Europe nor in California—coming over, as he did, with the confidence of an American citizen, and having no notion of staying in Europe longer than required to complete his purchases. I have tried everything to get him free, but all in vain. Our only hope rests on you, sir, the worthy and zealous representative of his government in this country.

ABRAHAM M. ISRAEL.

Mr. Judd to Mr. Israel.

LEGATION OF THE UNITED STATES,
Berlin, April 17, 1864.

SIR: Your letter dated 25th instant, written in behalf of your brother, Simon Israel, is received. I will immediately transmit the facts to the Secretary of State, in Washington, for his instructions, and as soon as an answer is received will advise you.

So many naturalized citizens were coming abroad and avoiding the obligations due to their adopted country in this time of its trouble, and at the same time involving it in serious disputes with other governments, that it became absolutely necessary for the government of the United States to reserve to itself the power to decide in what cases application should be made to foreign governments on behalf of citizens alleged to be improperly forced into the military service of such governments. The following extract from the instructions of the Secretary of State will show you that in transmitting your communication to Washington I am doing all that I am authorized at present:

"Henceforth you will make no further applications in these military cases without special instructions."

I regret very much that your brother should be involved in such troubles. I have been very particular to advise all naturalized citizens who come to the legation of the dangers they may be subjected to in the present situation of the question between the government of the United States and that of Prussia, in respect to the military claims of the latter upon naturalized citizens.

While I will gladly do all in my power to aid any citizen of the United

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States, I desire that they should feel that when our nation is struggling for its own existence it cannot take upon itself to act immediately upon questions that would involve it in difficulty with a foreign power.

I shall be happy to hear from you at any time.

Respectfully, yours,

N. B. JUDD.

Mr. Judd to Mr. Seward.

[Extract.]

No. 73.] LEGATION OF THE UNITED STATES,
Berlin, October 8, 1864.

SIR: * * * In my despatch No. 27, dated 14th of June, 1862, I reported the substance of a conversation between Baron Von Reitzenstein, representing Hanover at this court, and myself, in relation to the compulsory military service of naturalized American citizens in the armies of the countries of their birth; and his suggestion, that some treaty stipulation might be entered into to set that question at rest, and so avoid all future misunderstandings. A few days since, he called my attention to that conversation, by direction of his government, and asked if there were any further instructions from the government of the United States which might lead to action. I told him there had been none. He requested me to call your attention again to the question. He understands fully that weightier matters have engrossed your attention, but thought that perhaps the time might have arrived when you could give it consideration. * *

I am, sir, your obedient servant,

N. B. JUDD.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington.

Mr. Hunter to Mr. Judd.

No. 92.] DEPARTMENT OF STATE,
Washington, June 24, 1865.

SIR: A letter has recently been received at this department from Mr. Raphael Ettinger, of New York, in which he requests that you may be instructed to use your influence towards obtaining for him from the Prussian government permission to visit, without molestation, his aged parents in Posen. You are accordingly authorized, without entering into any discussion upon the general question of the right of the Prussian government to exact military service from its former subjects, to use your good offices in Mr. Ettinger's behalf. I take this occasion to acknowledge the receipt of your despatches to No. 106 inclusive.

I am, sir, your obedient servant,

W. HUNTER,
Acting Secretary.

NORMAN B. JUDD, Esq., *&c., &c., Berlin.*

Mr. Judd to Mr. Seward.

[Extract.]

No. 113.] UNITED STATES LEGATION,
Berlin, August 7, 1865.

SIR: I have the honor to acknowledge the receipt of your despatch No. 92, dated June 24, 1865, directing me to use my influence with the Prussian govern-

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ment to obtain for Mr. Raphael Ettinger, of New York, leave to visit Prussia, but prohibiting me from "entering into any discussion upon the general question of the right of the Prussian government to exact military service from its former subjects."

In accordance with such direction, I have addressed a communication to the Prussian government, a copy of which is hereto annexed. * * *

I am, sir, your obedient servant,

N. B. JUDD.

Hon WILLIAM H. SEWARD,
Secretary of State, Washington.

Mr. Judd to M. de Thile.

LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, July 16, 1865.

SIR: The undersigned has the honor to inform his excellency M. de Thile, under secretary of state for foreign affairs, that he has been instructed to use his good offices with his Majesty's government in behalf of Mr. Raphael Ettinger, now a citizen of the United States of America, and a merchant in the city of New York, but by birth a Prussian subject, and who desires temporarily to return to Prussia to visit his aged parents in the city of Posen, his former home.

Mr. Ettinger, it appears, left Prussia in 1856, when 18 years old, without having performed military service, and fearing lest he might be molested on that account on his return to Prussia, and be subjected to military service now, has addressed himself to the government of the United States, with the view of obtaining permission of his Majesty's government, temporarily, to come to Prussia without being molested by the local authorities of Posen. In pursuance of his application, the undersigned has been directed by the honorable Secretary of State of the United States to solicit of his Majesty's government the permission desired by Mr. Ettinger, without entering into any discussion upon the general question of the right of his Majesty's government to exact military service of its former subjects, who may have become citizens of the United States.

The undersigned indulges the hope that the wishes of his government will be complied with by the government of his Majesty, and he be furnished with an early favorable response; and he avails himself of this occasion to renew to his excellency the assurance of his distinguished consideration.

N. B JUDD.

His Excellency M. DE THILE.

Mr. Judd to Mr. Seward

Extract.

No. 115.] UNITED STATES LEGATION,
Berlin, August 9, 1865.

SIR: * * * * * * * *

I beg to report the case of Henry Fincke, who coming to his former home in Prussia, has been put in the army, where he is forcibly detained at this moment. I annex a copy of my communication to the Prussian government asking his release, from which the fact of the case will fully appear, so that they need not be recited here. Mr. Fincke's case, I deemed, required immediate action, and hence I failed to first report it to the department for instruction. I doubt not my proceedings will have your approval.

I am, sir, your obedient servant,

N. B. JUDD.

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Mr. Judd to M. de Thile.

LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, July 16, 1865.

The undersigned has the honor to solicit the intercession of his excellency M. de Thile, under secretary of state for foreign affairs, on behalf of Henry Fincke, a naturalized citizen of the United States of America, formerly a subject of Prussia, he having been born at Nordhemmen, in the district of Minden.

Henry Fincke left Prussia more than ten years ago, a period sufficient under existing Prussian laws to have lost his character as a Prussian subject. In the United States he was on the 4th of August, 1860, duly naturalized in a court of record in the city of St. Louis, in the State of Missouri, as appears from his original certificate of naturalization now before the undersigned. Being desirous of paying a visit to his parents, who are still living at Nordhemmen, he obtained a passport, dated March 27, 1865, from the Department of State at Washington, and thus properly legitimated he arrived in Prussia on the 3d of June last. On the 29th of the same month he had occasion to visit the city of Minden, when he was arrested for having hitherto failed to perform military service in Prussia, and he is now enrolled as a soldier in company 7 of the 15th infantry regiment, stationed at Minden.

Mr. Fincke has left a wife and child at home in St. Louis, where he is engaged in business. He intended to have remained in Prussia but for a brief period. His enrolment as a soldier in the royal army is a great misfortune to himself and his family, involving his utter ruin pecuniarily. He has therefore applied to this legation for aid and counsel, and the undersigned, in his behalf, solicits the good offices of the royal government, and hopes it may not be found incompatible with the public interest to grant a speedy discharge to Mr. Fincke, who thereupon will at once leave Prussia and never return. His discharge from his Majesty's military service would be esteemed an act of great comity, and as such be duly acknowledged by the government of the undersigned, who hopes to have his excellency's assistance in obtaining a compliance with his request, and to be favored with an early response.

The undersigned avails himself of this occasion to renew to his excellency the assurance of his distinguished consideration.

N. B. JUDD.

His Excellency M. DE THILE, *&c.*, *&c.*

Mr. Judd to Mr. Seward.

No. 119.] UNITED STATES LEGATION,
Berlin, August 30, 1865.

SIR: In my despatches Nos. 113 and 114 I informed you that I had asked of the Prussian government the release of William Schweitzer and Henry Fincke, with a full statement to you of the cases. Being very desirous of closing the cases, if possible, before leaving, I asked, as a personal favor, the immediate action of the ministers; and, if the final action could not take place, I requested an opinion as to the possible result. One of the directors of the ministry of foreign affairs advises me that the cases have been investigated by the War Department. It appears that Schweitzer has been adjudged to nine months' imprisonment for desertion, but that, on account of the state of his health, the department will recommend to the King his discharge in a short time. Investigations have also been had in the case of Fincke, and his discharge will also be

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recommended. The final result now depends on his Majesty's will. He is now in Baden Baden. My informant's decided impression is that both of the parties will be released.

I am, sir, your obedient servant,

N. B. JUDD.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington.

Mr. Wright to Mr. Seward.

[Extract.]

No. 4.] UNITED STATES LEGATION,
Berlin, October 11, 1865.

SIR: * * * * * * * * *

I forward herewith a copy of the note received from the minister of foreign affairs, giving information of the discharge of Mr. Henry Fincke.

I need not repeat how anxiously I am looking for your clear and logical views upon this subject, it being my firm conviction they will prove invaluable in this hour of our country's history.

* * * * * * * * * *

I have the honor to be, most respectfully, your obedient servant,

JOSEPH A. WRIGHT.

Hon. WILLIAM H. SEWARD,
Secretary of State.

BERLIN, *September* 30, 1865.

The undersigned has the honor to inform Mr. Wright, envoy extraordinary and minister plenipotentiary of the United States of America, in reply to the note of Mr. Judd, dated the 16th of July last, in reference to the citizen Henry Fincke, who, having never performed his military duty to Prussia, had been placed in the 2d company of the 15th regiment of infantry, in Westphalia; that the said Henry Fincke was released on the 17th instant, by an order from the minister of war to the provisional authorities of Westphalia.

The undersigned takes this opportunity of renewing the assurances of his most distinguished consideration.

The Minister of Foreign Affairs,
(By authority.) THILE.

Hon. JOSEPH A. WRIGHT, *&c., &c., &c.*

Mr. Wright to Mr. Seward.

[Extract.]

No. 5.] UNITED STATES LEGATION,
Berlin, October 16, 1865.

SIR: * * * * * * * * *

Enclosed you have the answer of the Prussian government to the application of Mr. Raphael Ettinger, a citizen of New York, to visit the land of his birth, with the view of seeing his aged parents. There is no mistaking the answer; it is positive, without any disguise.

* * * * * * * * * *

I have the honor to be, most respectfully, your obedient servant,

JOSEPH A. WRIGHT.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

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Baron Thile to Mr. Wright.

[Translation.]

BERLIN, *October* 12, 1865.

In reply to the note of Mr. Judd, dated the 16th of July last, requesting permission for Mr. Raphael Ettinger, a merchant of New York, to return to Posen on a visit, without being interfered with by the military authorities, the undersigned has the honor to inform Mr. Wright, envoy extraordinary and minister plenipotentiary of the United States of America, that, from the peculiar circumstances of the case in question, and the general principle, the government cannot comply with the request.

The undersigned takes this occasion of renewing the assurances of his most distinguished consideration.

The Minister for Foreign Affairs,
(By authority,) THILE.

Mr. WRIGHT, &c., &c., &c.

Mr. Wright to Mr. Seward.

[Extract.]

No. 6.] UNITED STATES LEGATION,
Berlin, October 25, 1865.

SIR: * * * * *

I forward with this despatch the reply of Baron Thile, the acting minister of foreign affairs, to the application of Jacob Carl Breiger, who desires to return to Prussia, with the view of settling his family affairs. The case was reported by Mr. Judd December 27, 1864, in despatch No. 79. This reply of the minister is certainly without any precedent. The idea of a child thirteen years of age being charged with having left his country with the view of avoiding military duty seems to be most absurd.

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I have the honor to be, sir, most respectfully, your obedient servant,
JOSEPH A. WRIGHT.

Hon WILLIAM H. SEWARD,
Secretary of State, Washington City.

Mr. Thile to Mr. Wright.

BERLIN, *October* 21, 1865.

In reply to the memorandum of the 4th of April last, the undersigned has the honor to inform Mr. Wright, envoy extraordinary and minister plenipotentiary, that the former Prussian subject, now citizen of the United States, Jacob Carl Brieger, who desires to return temporarily to Prussia, on account of family matters, was condemned to a month's imprisonment, or a fine of 50 R. (fifty thalers,) by the circuit court of the district of Newstadt, on the 10th of February, 1858, for having left the country with the intention of avoiding the performance of military service. In consideration of the peculiar circumstances of the case, the government will permit the said Brieger a short stay in Prussia, upon the

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condition that he submits to the judgment which was passed upon him, and he pays, beside, the costs. It is in this sense that the authorities have been instructed to act.

The undersigned takes this occasion to renew to Mr. Wright, the assurances of his most distinguished consideration.

The Minister for Foreign Affairs,
(By authority,) THILE.

Mr. WRIGHT, &c., &c.

Mr. Wright to Mr. Seward.

[Extract.]

No. 8.] UNITED STATES LEGATION,
Berlin, November 15, 1865.

SIR: * * * * * * * *

The minister's (Count Bismarck) attention was called to the case of Jacob Carl Brieger. It was evident he had no knowledge of this case, it being acted upon during his absence. This brought up the whole subject of the Prussian laws as connected with the military service, and the difficulties in the way of adjusting the same with the United States. He said it would be almost impossible to change by legislation the Prussian laws, in view of the prejudice among the German peasants that (as all Prussians are subject to military duty) the returning adopted citizens would be exempt. After some conversation, during which the count exhibited the most earnest desire to adjust the whole subject, admitting it was becoming more formidable and complicated every year, as the numbers returning from the United States were increasing, he agreed with me that not one in fifty liable under the Prussian laws were brought into the army, and, to use his own language, "there was no desire on the part of his Majesty's government to arrest any American citizen returning to his native land on business, but when a case was presented to the government by the police authorities, giving the name, place of birth, age, &c., the law was imperative, and the government compelled to act." He remarked, the subject could only be adjusted by some treaty arrangement with the United States; at least in his opinion this would be the proper way to commence its adjustment, and if it was successful, no doubt the principles agreed upon would be carried out by the legislative authorities of both countries. My anxiety was to hear his plan for the settlement of this vexed question in detail. It was substantially this: "*Exemption to all Prussian subjects returning to their native land, who had left before their seventeenth year, and exemption also to all other persons who were not in the army, or notified to enter at the time of leaving, and who shall have been out of the country for ten years.*" Allusion was then made to the difficulty in arresting and bringing to trial persons charged with criminal offences in either of the two countries under the present extradition laws. While on this subject he remarked, the progress in the commercial world, since the date of our treaty in 1828, showed the propriety of some additional guards and restrictions of a summary character, whereby a more prompt enforcement of the criminal laws may be had, and he hoped there would be some modification of the extradition laws between the two countries.

I left Count Bismarck with the understanding he would communicate with Baron Gerolt on this subject, and the military authorities of his Majesty's government in Prussia. If they should concur in his views, he would then, through this legation, communicate to the United States government his views upon the propriety of making some changes in our present laws on the subject of surrendering criminals, expecting the government of the United States (if receiving

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the same favorably) would reply, with an allusion to the military law of Prussia, asking for some modification of the existing law by which the settlement of this question might at least be entered upon, and which he trusted would result in its satisfactory adjustment.

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I have the honor to be, most respectfully, your obedient servant,

JOSEPH A. WRIGHT.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Mr. Seward to Mr. Wright.

[Extract.]

No. 15.] DEPARTMENT OF STATE,
Washington, December 2, 1865.

SIR: Recurring to your despatch No. 8, which has already been acknowledged, I have now the honor to give you the President's views in regard to the proceedings in Prussia, by which natives of Prussia who have voluntarily exchanged allegiance from that government for the rights and privileges of citizens of the United States, and have been duly naturalized as such, are nevertheless arrested and held liable to perform military service on occsions of their transient visits to their native country. The question involved in these proceedings is an old one, and was a subject of elaborate discussion between the two countries before the occurrence of our late civil war. Considerations of ease and policy prevailed with this department to allow the subject to rest during the continuance of the war. We became even less anxious upon the subject when it was seen that worthless naturalized citizens fled before the requirements of military service by their adopted government here, and not only took refuge from such service in their native land, but importunately demanded that the United States should interpose to procure their exemption from military service exacted there. Those circumstances, however, have passed away, and the question presents itself in its original form. The United States have accepted and established a government upon the principle of the rights of men who have committed no crime to choose the state in which they will live, and to incorporate themselves as members of that state, and to enjoy henceforth its privileges and its benefits, among which is included protection. This principle is recommended by sentiments of humanity and abstract justice; it is a principle which we cannot waive. It is not believed that the military service which can be procured by any foreign state in the denial of this principle can be important or even useful to that state. The President desires that you present the subject to the serious consideration of Count Bismarck. In doing so you will assure the minister for foreign affairs that we are animated by sentiments of sincere friendship and good will to Prussia, and that therefore we shall be ready to receive and to consider with candor any opinions upon the subject that the Prussian government may think proper to communicate. * * *

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

JOSEPH A. WRIGHT, Esq., *&c., &c., &c., Berlin.*

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Mr. Wright to Mr. Seward.

[Extract.]

No. 12.] BERLIN, *December* 16, 1865.

SIR: * * * Baron Thile informed me yesterday he was preparing a communication for our government, referred to in my last despatch. Desiring to procure all the information I could, at my suggestion the Baron sent me, in his own handwriting, a rough draught of some of the points intended to be presented, which is herewith enclosed to you. The Baron also remarked that reference would also be made in the communication to the treaty of 1828, and certain modifications asked for in its revision. * * *

JOSEPH A. WRIGHT.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

The Baron's memorandum.

"His Majesty's government has reason to wish for a revision of the treaty of extradition between Prussia and the United States of June 16, 1852, and also of the treaty of 1828.

"The principal modifications which are desired would bear on the following points:

"1. The category of criminal actions justifying the extradition of the criminals ought to be extended to the crimes of theft and fraud, till now not provided for in the treaty.

"2. The assistance of the American authorities at the proceedings of extradition ought to be granted *ex officio*, and without causing expenses to the Prussian tribunals. Till now the American authorities do not interfere by themselves, and the expenses caused to Prussia by paying lawyers, policemen, &c., become exorbitant, besides the costs for proceedings of the American courts, which are also very expensive.

"3. The proceedings of the American courts of justice ought to be simplified. The American government has already began a reform of the respective legislation, and the law of June 22, 1860, offers a proper basis for that purpose. The treaties concluded by Prussia with France, Belgium, the Netherlands, Russia, and Spain, require for the extradition of a criminal a simple order of seizure, judicial sentence, or decree of accusation, issued by the home tribunal, (mandat darret ou tout autre dete ayant au moins la même force que a mandat,) and no further proceedings before the tribunal of the other country are required. A similar system adopted by the American government would be most benefactory to both countries.

"Advantages respecting the legislation on the nationality of Prussian subjects which could eventually be conceded to Prussian subjects who are or wish to become citizens of America:

"1. It would be granted, that after an absence of ten years from Prussia, not only the rights but also the duties and obligations of a Prussian subject towards his native country cease to prevail. This is a principle which till now has been followed by Prussian authorities only in some isolated cases, but which has not been generalized nor is law of the country.

"2. The article 110 of the Prussian criminal code says: Whosoever leaves Prussia with a view to avoid his enlistment in the royal army will be punished, either by a fine of 50 to 1,000 thalers, or by imprisonment from one month to one year.

"An exemption from this general rule might be introduced in favor of such individuals who leave Prussia before the age of 17 years."

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Mr. Wright to Mr. Seward.

[Extract.]

No. 19.] UNITED STATES LEGATION,
Berlin, January 25, 1866.

SIR: * * * * * * *

It affords me great pleasure to enclose a second reply of Count Bismarck by Baron Thile, in the application of Jacob Carl Brieger. This case was reported by Mr. Judd in his despatch No. 79.

* * * * * * *

I have the honor to be, most respectfully, your obedient servant,
JOSEPH A. WRIGHT.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington.

[Translation.]

BERLIN, *January* 15, 1866.

The undersigned, in compliance with his note of the 21st of October, 1865, most respectfully informs Mr. Wright, envoy extraordinary and minister plenipotentiary of the United States of America, that his Majesty the King was pleased, on the 6th of this month, from reports of the case, to decide that the sentence pronounced by the court of Neustadt, 10th of February, 1858, against the former Prussian subject, Jacob Carl Brieger, shall remain unexecuted; and furthermore, the costs of the trial shall be annulled.

The undersigned takes this occasion to renew to Mr. Wright his most distinguished consideration.

The Minister of Foreign Affairs,
(By authority,) THILE.

Mr. WRIGHT, *&c., &c., &c.*

Mr. Seward to Mr. Wright.

No. 21.] DEPARTMENT OF STATE,
Washington, February 16, 1866.

SIR: Herewith I transmit a copy of two letters from persons of German birth, but now naturalized citizens of the United States, who desire to be relieved from the obligation to perform military service imposed upon them by the laws of their native countries. To both I have replied that you would be instructed to use your good offices towards obtaining the exemption which they desire. You are consequently directed to intimate in the proper quarter, and in an unofficial way, that a compliance with the wishes of Messrs Striebz and Erk would be gratifying to this government.

I am, sir, your obedient servant,
WILLIAM H. SEWARD.

JOSEPH A. WRIGHT, Esq., *&c., Berlin.*

WASHINGTON CITY, D. C., *February* 1, 1866.

RESPECTED SIR: With profound respect I address these few lines to you, hoping, honorable sir, the contents of which you will not disregard, as they are of vital importance to me. I emigrated from the kingdom of Bavaria, Germany, at the age of 14 years, and in April, 1861. Before reaching my 19th year, I

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entered the service of the United States army as a volunteer. I have served faithfully till July 27, 1865; I have now three honorable discharges from said service in my possession; I thereby claim, by an act of Congress, to be a citizen of the United States; I also claim a right to be protected as such. As you are well instructed as to the laws of European governments, or more particularly of the Pereiz of Germany, as to the service they require of each male when reaching the age of 21 years as a soldier, enough will be to state that I was drafted as a soldier by the Bavarian government when I had reached my 21st year. My father (who still resides at the place of my birth) was notified of the fact and held responsible for my appearance whenever I should be called for. On my non-appearance, his (my father's) place of business closed, and all property owned by him taken possession of by the Bavarian government, besides put to a great deal of other trouble. Through the kind assistance of Mr. Duncan, United States consul at Carlsruhe, and through documents being shown by him and by my father, that I was serving in the United States army as a soldier, he was allowed to open his place of business and take possession of his property again.

Now, honorable sir, in the spring of 1864 my mother died, and leaving us (3) children considerable property. At the death of my mother the Bavarian government again made its appearance through its officials, and instantly laid claim on all property coming to me, and still holds me as a citizen, and Mr. Duncan, United States consul, has made every effort but could not get my release from them, and there it so does stop. I have sent by request of Mr. Duncan document after document, one of which you had the kindness to sign; it was handed to you by Colonel James B. Swain, then my colonel; stated that I was serving in the United States army, and that I was a citizen of the United States, but all to no avail.

Mr. Duncan states he cannot do anything for me till he receives instructions from your department. Now, honorable sir, I do not know where I belong; the Bavarian government holds me as a citizen, holds my property, and probably would arrest me as a deserter should I ever set my foot in the place of my birth again, while I have served in the United States army long before they had any claim on me. Honorable sir, can anything be done in my case? If so, I hope you will give it your earliest attention, for this case has been going on since 1863, and has cost me and my father time, trouble, and money; always having known you to protect a citizen of the United States and his property wherever he be, I know you will not refuse me your kindness in this case, as the citizenship I hold was earned through four years' hard service, and by giving me your kind aid, honorable sir, you will put me under everlasting obligations to you.

Hoping, honorable sir, you will excuse me for the liberty I have taken in addressing you,

I remain, with profound respect, your obedient servant,

GEO. F. W. STRICKY.

Hon. Secretary SEWARD.

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707 BROADWAY, NEW YORK CITY,
February 12, 1866.

RESPECTED SIR: Having left Prussia in the year 1856, (then being under the age of seventeen,) and having had permission from the Prussian government to remain away two years, but could not arrange to return in that time, and having become a naturalized citizen of the United States, I respectfully ask that you would use your influence with the Prussian government to obtain from them the right, unmolested, in my visiting my father and other relations in Prussia, and that I may get consent of emigration from the Prussian govern-

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ment that I may pass as an American citizen and not be forced in the Prussian army. By sending the necessary papers to me I can forward them to my father, in Berlin, who will use his influence and endeavors to have them properly noticed.

Being anxious to proceed to Berlin at as early a moment as possible, I would most respectfully ask that you would kindly notice the above.

With respect, I remain your obedient servant,

OTTO ERK.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Mr. Wright to Mr. Seward.

No. 24.] UNITED STATES LEGATION,
Berlin, March 21, 1866.

SIR: In my interview with Count Bismarck on last Monday I communicated to him the information conveyed in your despatch No. 22, dated February 19, 1866. I stated that the government of the United States would not, in my opinion, enter into treaty stipulations qualifying the right of American citizens to the recognition of their nationality by foreign governments. I also added that the government of the United States did not think at this time there was any occasion or urgency for a revision of our commercial and extradition treaties. The count manifested more than ordinary interest in my communication, and, while expressing his disappointment, remarked upon the impossibility of Prussia changing her laws on the subject of military duty. To abolish those laws, he said, would be plainly impracticable for a country situated like Prussia, while to relax their stringency in favor of American emigrants beyond the concessions, (as he termed them, alluding to his protocol proposals,) would not only amount to the practical abrogation of said statutes in the case of all that had emigrated to the United States, or intended to do so in the future, but would be actually offering a sort of emigration premium to all able-bodied men who had attained the age when they might be called out for active service in the army. He manifested, as usual, a great desire to adjust this subject, and intimated that seven years' absence from Prussia should release the person from all military service, as applied to all who left the country after their seventeenth year. This, he intimated, would be a fair compromise; (saying) as the government of the United States did not, and he ardently hoped would never undertake to enforce its own views upon the subject, why not, he repeated, accept these proposals? which would enable the government to dispense with the many remonstrances that had of late been addressed to him in so many individual cases, and which, he regretted to say, could not always be attended to by him. Why not accept those proposals, the count continued, as they would render it possible for the great majority of emigrated Prussians to come over and visit the country of their birth with impunity? * * * * *

I have the honor to be, most respectfully, your obedient servant,

JOSEPH A. WRIGHT.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Mr. Seward to Mr. Wright.

No. 28.] DEPARTMENT OF STATE,
Washington, April 9, 1866.

SIR: I have had the honor to receive your despatch of the 21st of March, (No. 24,) which contains a relation of a conversation which, previous to that

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day, you had had with Count Bismarck concerning his protocol upon the subject of the recognition of Prussians who have become naturalized in the United States, and in which conversation a revision of the commercial and extradition treaties existing between the United States and Prussia was also discussed.

The President is favorably impressed with the good disposition which Count Bismarck manifested on that occasion. His remarks, as you have reported them to me, have not had the effect to change the views which have been expressed in regard to those subjects in the instructions which you have received from this department. It would give me pleasure, however, to reply on behalf of the United States to Count Bismarck's arguments, and I have some, though not very confident, grounds for believing that in such a reply, which would be made, of course, in a spirit altogether friendly, we might advance towards a solution of the difficulty.

You will perceive at once that it would be an unusual proceeding for this government to make a formal reply to the argument of the Prussian minister for foreign affairs, which argument is presented on his part to us, not in writing, but orally, and is made known to us only by the report of our representative in Berlin. You may give such an intimation as this to the count, and inform him that if he shall think it expedient to give his argument in the customary form it will be taken into deliberate and friendly consideration.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

JOSEPH A. WRIGHT, *&c., &c., Berlin.*

Mr. Wright to Mr. Seward.

[Extract.]

No. 28.] UNITED STATES LEGATION,
Berlin, April 18, 1866.

SIR: Upon the receipt of your despatch, (No. 20,) dated January 31, 1866, I promptly called Count Bismarck's attention to the case of Simon Israel. * * I was greatly disappointed on receiving Baron Thile's reply. Count Bismarck is unable to attend to business, and when he is able the present condition of affairs between Prussia and Austria require all his time and strength. I enclose herewith a copy of my first note and Baron Thile's reply, and also mine of yesterday. If this answer is not favorable, I shall seek an interview with his Majesty. It is most infamous to treat an American citizen in this manner, and no efforts shall be spared to bring about his release. My faith, however, is strong that when Count Bismarck is in possession of the facts of the case, Israel will be at once discharged. * * *

I have the honor to be, very respectfully, your obedient servant,

JOSEPH A. WRIGHT.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington.

Mr. Wright to Count Bismarck.

UNITED STATES LEGATION,
Berlin, February 21, 1866.

MONSIEUR LE COMTE: The undersigned has the honor to call the attention of your excellency to the case of Simon Israel, formerly a Prussian subject, but now an American citizen. The said Israel emigrated to America in 1853 and remained there over ten years; returned to Prussia in 1863, to the place of his

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birth, (Chadizsen, province of Posen,) where he was seized by the authorities, taken to Stettin, and placed in the fourth company, fourteenth regiment of the Prussian army. The said Israel is now unable to perform the duties of a soldier, as he has the hernia, and his eyesight has become impaired, both occasioned since he has been in the Prussian army.

The undersigned would most respectfully beg the intervention of your excellency's kind offices in order to obtain the release of the said Israel. He has already served about two years in the Prussian army, has relatives in America, and his business is suffering from his long absence.

The undersigned doubts not but that as soon as the attention of his Majesty's government is called to the case of Mr. Israel, he will be at once released.

I take this occasion to renew to your excellency the assurances of my high consideration.

JOSEPH A. WRIGHT.

His Excellency Count BISMARCK,
Pres't of the Council, Minister for Foreign Affairs, &c.

Mr. Wright to Count Bismarck.

UNITED STATES LEGATION,
Berlin, April 16, 1866.

The United States minister, Mr. Wright, has the honor to acknowledge the receipt of Baron Thile's note of the 14th instant, in reference to the case of Simon Israel, an American citizen, at this time serving in the Prussian army at Stettin. He deems it his imperative duty to immediately call the attention of his Majesty's government to a reconsideration, as it is most manifest the real condition and facts, as applicable to Mr. Israel's case, are misapprehended.

The brother of said Israel and others have informed the undersigned that Simon Israel went to America in the spring of 1853, and did not return to Prussia in the year 1862, but in the fall of 1863, and consequently was absent from Prussia over ten years. The undersigned has received the following information in relation to the treatment, condition, and health of Mr. Israel from the United States consul at Stettin.

These are principally the statements of the said Israel, yet the consul has been acquainted with the individual from the time he entered the army till the present time.

I consider it to be my duty to give his Majesty's government the information thus communicated. The consul says: "Pitiful as was his first tale of how he had been dragged away from his relatives, to whom he was on a visit, after an absence of more than ten years in the United States, the treatment he received in the regiment nearly drove the tears into my eyes. It is now over two years that he has been held in compulsory service, and he has thereby been made a cripple perhaps for the whole of his life, having been compelled to exercise which his body could not endure. By some gymnastical evolutions and jumping feats both of his loins were dislodged in some way, and he now wears a truss or bandage all around his body to prevent their swelling. First, he says the jumping caused him pain in one side, when he complained, but was answered by the instructing officer that he must "jump or go to hell." Continuing to complain, however, he was examined by the surgeon and a truss applied to the side injured. Then he had to take up the evolutions again, and was kept at jumping until the other side got hurt in like way, and he now wears the bandages above stated. Being now pronounced unable to drill any longer, any other man he says would have been mustered out and allowed a pension, but when he asked for his release he was answered that he must serve the whole

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time (namely, three years) as a punishment for having gone to America to evade the military service. He was 17 when he left for America. His situation was such he could not drill, and he was ordered to learn tailoring so as to mend the company's clothing. Unused to this kind of work, at which he was kept constantly for several months, his eyesight became impaired and he was placed in the hospital, where he was treated for nine weeks, the physicians expressing fears that he would lose the use of his eyes altogether. He has now been out of the hospital, seven weeks, but says his eyes are so weak that he can scarcely read. Notwithstanding his limbs disable him from drilling and exercising, and his eyesight does not allow him to work at tailoring, he is still kept in a soldier's garb and his name is retained on the roll, and is subjected to all the rules of the military service and barracks, and the rest of the time he is permitted to run about the streets doing nothing. Such is the sad statement of his case, and which I have no reason to disbelieve. I looked at his limbs and eyes and saw plainly how they had been affected and weakened since he called on me in 1864."

From the above statement of his condition, in fact upon that stated as to his health by the minister of war, it is most difficult to imagine what service this unfortunate man can render the Prussian army.

The undersigned cannot for a moment doubt that upon a reconsideration of this case his Majesty's government will at once restore him to his adopted country, friends and business, thus giving additional evidence of the earnest desire of his Majesty's government to strengthen the long-cherished friendship and good will which have so happily existed between the government of Prussia and the United States.

In submitting this case I beg you, dear count, to receive the renewed assurance of my distinguished consideration.

JOSEPH A. WRIGHT.

His Excellency Count BISMARCK, *&c., &c., &c.*

Mr. Seward to Mr. Wright.

No. 29.] DEPARTMENT OF STATE,
Washington, April 25, 1866.

SIR: Herewith I transmit certain papers in support of an alleged claim of Henry Schoenfeld, of Montgomery county, Ohio, for damages against the government of Hesse-Cassel. From these papers it appears that Schoenfeld's father emigrated when the son was seven years old, and was naturalized in this country. When the claimant was fifteen years old he was brought to this country by his father, and became naturalized by operation of law. Here he remained until June, 1865, when he went to his native country for medical treatment. In the mean time, when arrived at the age of twenty-one, and eight years after being taken from Hesse-Cassel, he was convicted in his absence, and on *ex parte* proceedings, of a default to render military service, was sentenced to the payment of a fine, and in the alternative of non-payment and no property on which to levy, to imprisonment. On the 26th of July, 1865, he was arrested and imprisoned under the sentence before mentioned, was detained sometimes in prison, sometimes in the charge of guards, whom he had to find and lodge at a hotel until the 8th of September, 1865, when he obtained a decision annulling the sentence of July 17, 1849, on which he was imprisoned. This decision recites that the former judgment was based upon the supposition that the convicted Schoenfeld was at that time a subject of the electorate; that from late inquiries such was not the case, but that the accused had emigrated many years previous with his father, who had acquired for himself a new home in America. There-

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fore, the decision declares, "the said accused does not owe military service here as there are wanting the requisite premises to constitute a misdemeanor, and therefore, at the direction of the State authorities, the judgment of July 17, 1849, is hereby annulled, with remission of cost."

The case, upon the judgment of the authorities of Hesse-Cassel, is that of one who has been subjected to imprisonment, expense, and consequent damages, by the execution of a judicial order found to have been erroneous, and therefore reversed. He is consequently entitled to indemnity precisely as if he had not been born in Hesse-Cassel, and such indemnity, it is presumed, will not be withheld.

You are instructed to present the case properly to the government of Hesse-Cassel, and to request a proper consideration of it.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

JOSEPH A. WRIGHT, Esq., *&c., Berlin.*

Mr. Wright to Mr. Seward.

[Extract.]

No. 29.] UNITED STATES LEGATION,
Berlin, April 26, 1866.

SIR: * * * * I am satisfied the statements of Simon Israel and also of his brother are not correct as to the time of Simon's departure and return to Prussia. The evidence discloses the fact that Simon left Prussia in February, 1854, with a passport authorizing him to be absent one year, and that he returned in July, 1862, having been absent seven years after the expiration of the time mentioned in the passport.

The military officers under whom he has been serving deny the alleged maltreatment. Believing the shortest method of procuring his discharge will be through the clemency of the King, I have requested his brother to send me a petition for that purpose, and Baron Thile informs me that in his opinion his Majesty will release him. * * *

I have the honor to be, most respectfully, your obedient servant,

JOSEPH A. WRIGHT.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Mr. Seward to Mr. Wright.

No. 32.] DEPARTMENT OF STATE,
Washington, May 8, 1866.

SIR: Your despatch of the 18th ultimo, No. 28, has been received, and your proceedings in the case of Simon Israel are approved. You will urge his speedy release, or a prompt answer to your latest note in his behalf, addressed to Count Bismarck. Should Israel fail to be released the President will then determine as to what alternative is left for obtaining a proper consideration and settlement of the question.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

JOSEPH A. WRIGHT, Esq., *&c., Berlin.*

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Mr. Wright to Mr. Seward.

[Extract.]

No. 35.] UNITED STATES LEGATION,
Berlin, June 7, 1866.

SIR: * * * Enclosed you will find the reply of Baron Thile to the application of Otto Erk. It is difficult to reconcile this reply with the favorable answer in the cases of Jacob Carl Brieger and Philip Jacobson. * * *

I have the honor to be, yours, most respectfully, your obedient servant,
JOSEPH A. WRIGHT.

Hon. W. H. SEWARD,
Secretary of State, Washington.

Baron Thile to Mr. Wright.

[Translation.]

BERLIN, *June* 1, 1866.

MONSIEUR LE MINISTRE: You were pleased to forward me the request of a certain Otto Erk, of New York, who left Prussia when seventeen years old, without having performed his military service, and who desires permission to visit his parents in Berlin without risking interference by the authorities. This request was reported to the minister of war and the interior, who reply that they cannot consent to the wish of Mr. Erk.

According to the terms of section 23, No. 2, of the law of the 31st of December, 1842, no doubt exists that the said Erk is still a Prussian subject. A passport was issued to him on the 17th of June, 1856, for two years, to go to New York, and therefore he has been in a foreign country but eight years, viz., being but ten years since his passport for two years was issued. In the present state of affairs the said ministers declare that, considering the precise instructions of December 9, 1858, for recruiting the army, they cannot permit Mr. Erk to return temporarily to Berlin.

Receive, Mr. Wright, with my regrets, the assurances of my high consideration.
The Minister for Foreign Affairs,
(By authority,) THILE.

His Excellency Mr. WRIGHT,
Envoy Extraordinary and Minister Plenipotentiary, &c.

Mr. Wright to Mr. Seward.

[Extract.]

No. 38.] UNITED STATES LEGATION,
Berlin, June 21, 1866.

SIR: * * * Mr. Israel's case was presented some days since upon a petition from his sister, accompanied with a note from myself. The count promises to give it immediate attention, and I shall expect his answer, or release of Mr. Israel, in a few days. Yet it is almost impossible, in the present condition of affairs, to get the attention of government on individual cases. I have just learned of the arrest of Henry Rush, an American citizen, of Illinois, by the authorities of Lippe Schaumburg, for military service. As there is no repre-

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sentative of that government at Berlin, I shall communicate directly with the minister of foreign affairs in his behalf. If this is not successful I shall visit the government and demand his release.

Mr. Rush has a family in Illinois. He is a thoroughly loyal man, serving in our army, and was at his brother's side when he fell in defence of our country.

* * * * * * * * *

I have the honor to be, most respectfully, your obedient servant,

JOSEPH A. WRIGHT.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington.

Mr. Wright to Mr. Seward.

[Extract.]

No. 39.] UNITED STATES LEGATION,
Berlin, June 28, 1866.

SIR: * * * It will be seen from the enclosed correspondence that Prussia refuses to give up Francis Benndorf (to use their own language) "for the present." I am at a loss to know what course to pursue in this case. During the last two months more than one hundred adopted American citizens (born in Prussia) have called on me for advice and information; all of whom are liable (according to the Prussian laws) to be called upon to perform military service. Yet I do not know of another case but this one of Benndorf, and that of Simon Israel, that has been subjected to service. My opinion is that Simon Israel will soon be discharged, as I am sure the foreign office has recommended the King to pardon him. * * * * * *

I have the honor to be, most respectfully, your obedient servant,

JOSEPH A. WRIGHT.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington.

Mr. Wright to Count Bismarck.

LEGATION OF THE UNITED STATES,
Berlin, May 16, 1866.

SIR: I have the honor to call the attention of your excellency to the arrest and forcing into the army of the American citizen, Francis Benndorf. The said Benndorf came to Prussia a short time since, to convey his aged mother and sister to America, and notwithstanding he was provided with discharge papers from the United States army showing that he was a citizen, the Prussian authorities compelled him to enter the service of the King, and he is now in the fourth regiment of Thuringer infantry, stationed at Torgan.

I do not doubt that your excellency will hesitate a moment in using your good offices in order to obtain the release of this American citizen, and permit him to return with his mother and sister to his adopted country.

JOSEPH A. WRIGHT.

His Excellency Count BISMARCK, *&c.*

M. de Thile to Mr. Wright.

BERLIN, *June* 23, 1866.

SIR: Francis Benndorf, in whose favor you interceded in your communication under date of 16th May, 1866, received in the fall of 1862 a simple permit,

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valuable for eight days, to go to Leipsic. Instead of returning at the expiration of this document, he went to America, whence he returned during the present year. His unauthorized absence having lasted only 3¼ years, he, according to the law of 31st December, 1842, retained his Prussian nationality. He should, therefore, fulfil his military obligations, and I regret exceedingly that I cannot obtain permission for him to leave the army.

I take this occasion to renew assurances, &c.

THILE.

His Excellency Mr. WRIGHT, *&c.*, *&c.*

Mr. Seward to Mr. Wright.

No. 40.] DEPARTMENT OF STATE,
Washington, July 5, 1866.

SIR: I enclose a transcript of a letter dated the 26th ultimo, addressed to the President by Mrs. Caroline Klein, wife of Frederick Klein, a native of Wurtemberg, and a naturalized citizen of the United States, who is represented to be held for military service in the country of his birth. You are authorized to interpose your good offices in his behalf, and it is hoped that your intercession may result in his release.

I take this opportunity to acknowledge the receipt of your despatch of June 18, No. 37.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

JOSEPH A. WRIGHT, *&c.*, *&c.*, *&c*, *Baden.*

PHILADELPHIA, PENN., *June* 26, 1866.

The humble petition of the undersigned, Caroline Klein, most respectfully represents to your excellency the following:

I, Caroline Klein, residing No. 1819 South Second street, in the city of Philadelphia, State of Pennsylvania, am the lawful wife of Frederick Klein, a native of the kingdom of Wurtemberg, Germany, who became a citizen of the United States on the 4th of May, 1859, as certified to by his certificate of citizenship granted by the court of quarter sessions of Philadelphia, and recorded in the Department of State at Washington, D. C., under No. 24,654, upon which certificate a passport was granted to him, my said husband, Frederick Klein, on the 23d of March, 1866.

My husband went to Europe about the 7th of April last to visit his native country, Wurtemberg, which he had left about thirteen years ago, to emigrate to the United States.

Upon his arrival in Wurtemberg my said husband was arrested by the authorities of that kingdom, upon the charge of being a fugitive from military service; and, as I am informed and believe, is still kept there in prison at some place at present unknown to me. My relatives in Wurtemberg have informed me by letter that my husband was arrested on the second day after his arrival in Wurtemberg, and as I have received no information from my husband himself, I have no doubt that he is not permitted by said authorities to communicate or correspond with his family or with the consul of the United States at Stuttgard, Wurtemberg.

I therefore take the liberty to implore the good grace of your excellency to exert your good offices for the deliverance of my husband from prison. I pray you most sincerely to instruct the consul of the United States at Stuttgard,

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that he may, in the name of the President of the United States, ask the liberty of my husband from the King of Wurtemberg as a matter of grace and good will.

From the above candid statement, and from the records above referred to, you will perceive that my husband is a citizen of the United States, and I do hereby assure your excellency, upon my solemn oath, that my husband has never committed any wrong amenable to the laws of his native country, except being a fugitive from military service; and that my husband during all his life-time, and especially while living in the United States, always behaved as a man of good moral character and integrity. These facts induce me to invoke the assistance of the diplomatic agents of the United States.

Hoping that your excellency will grant this, my fervent prayer, and favor me with an answer,

I am, most respectfully, your obedient servant,

CAROLINE KLEIN.

His Excellency ANDREW JOHNSON,
President of the United States of America, Washington, D. C.

UNITED STATES OF AMERICA,
State of Pennsylvania, City and County of Philadelphia, ss:

Before me, the undersigned, a notary public for the Commonwealth of Pennsylvania, residing in the city of Philadelphia, personally appeared on this 26th day of June, 1866, Caroline Klein, wife of Frederick Klein, baker, residing in said city of Philadelphia, and personally known to me as the identical person she represents to be in the foregoing petition, who, after being duly sworn according to law, did depose and say, that the contents of the foregoing petition are true and correct in every particular, which said petition she also signed in my presence.

Witness my official seal and signature this 26th day of June, 1866.

[SEAL.] JULIUS WOLFF, *Notary Public.*

Signature and seal of Julius Wolff on file in State Department, Washington, D. C.

Mr. Seward to Mr. Wright.

No. 41.] DEPARTMENT OF STATE,
Washington, July 25, 1866.

SIR: Herewith I transmit a copy of a letter of the 17th instant, addressed to this department by Mr. Montgomery Blair, together with a copy of its accompaniment, a letter addressed to him by Mr. John B. Olfers, a resident of Maryland, whose son, John Henry Olfers, a native-born citizen of the United States, as appears from the certificate of baptism enclosed with Mr. Olfer's communication, is now compulsorily performing service in the Hanoverian army.

As the facts set forth in the letter of Mr. Olfers, senior, would seem to be undeniable, you are instructed to make a representation of them in the proper quarter, and to request the immediate discharge of his son from the Hanoverian service, unless the government of the kingdom of Hanover should be able to give satisfactory reasons for his detention.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

JOSEPH A. WRIGHT, Esq., *&c., Berlin.*

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WASHINGTON, D. C., *July* 17, 1866.

DEAR SIR: I beg to call your attention to the enclosed letter from John B. Olfers, a citizen of Maryland, and to ask the aid of your department in procuring the discharge of his son from the Hanoverian army. You will see by the papers enclosed that his son, John Henry Olfers, is a native-born citizen of the United States.

I am, sir, very respectfully, your obedient servant,

M. BLAIR.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington.

BALTIMORE, *July* 16, 1866.

DEAR SIR: I take the liberty and have the honor to bring to your attention the undermentioned facts:

I went with my wife and two children, in the year 1851, for the benefit of my health, to Germany, being a citizen of the United States, and my wife a native of Charleston, S. C., both those children, whereof one was a son, being born in that city, which is proved by my pass, at present in your hands, and enclosed certificate of baptism, approved by the Hanoverian consul at Charleston.

This son was drafted and taken into the army of the Hanoverian kingdom in April, 1865, notwithstanding my statement that he was born in the United States and son of a citizen of the said United States—keeping a certificate of birth and baptism in their possession, and refusing to give it up.

He was taken in the 7th company, garde regiment, kingdom of Hanover; the company was commanded by Captain Dreiherr Von Brandis, a son of the minister of war, which captain, after I had stated my case to him, told me I could go home, he being very sure that my son very soon would be restored to me.

I left Germany, being fully recovered of my sickness, in March, 1866, without being able to take my son back to his native land, being forced into the army of a foreign king, where he has no business with nor any obligation whatever, he being, on the contrary, very much wanted by me in my business, and my wife suffering and declining daily on account of his absence and safety.

In consequence of which I have the honor to beg you to take such measures as you deem proper, that he might be restored to us, for which the Almighty God will certainly bless you, and you will reap the heartful thanks of a sick, distressed mother, his young brothers, sisters, and your very humble servant,

JOHN B. OLFERS.

Hon. MONTGOMERY BLAIR, *Washington, D. C.*

Mr. Wright to Mr. Seward.

[Extract.]

No. 47.] UNITED STATES LEGATION,
August 6, 1866.

SIR: It gives me pleasure to state that one among the first acts of his Majesty, on his return to Berlin, was to pardon Simon Israel, and give him his discharge. * * * * * * * * *

I have the honor to be, most respectfully, your obedient servant,

JOSEPH A. WRIGHT.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington.

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Mr. Wright to Mr. Seward.

[Extract.]

No. 50.] UNITED STATES LEGATION,
Berlin, September 3, 1866.

SIR: * * * Upon hearing of the arrest of Charles Bergen and Charles Müller, said to have been taken forcibly from the American steamship Baltic, in the harbor of Bremerhaven, by order of the captain of the Prussian man-of-war Nymph, I called Count Bismarck's attention to the subject, and I learn this morning that the Prussian captain asserts that the two men left the American ship voluntarily. I am as yet ignorant of the facts in the case, but will investigate, and advise the government immediately. * * *

I have the honor to be, most respectfully, your obedient servant,

JOSEPH A. WRIGHT.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington.

Mr. F. W. Seward to Mr. Wright.

No. 45.] DEPARTMENT OF STATE,
Washington, September 22, 1866.

SIR: Herewith I enclose a transcript of a letter addressed to this department on the 12th ultimo by the Hon. James Speed, transmitting, with a communication to yourself, a copy of the naturalization papers of Mr. S. Phillips. You are instructed to use your good offices towards procuring the release of Mr. Phillips from the Prussian army, in which, it is stated, he is now compulsorily serving.

I am, sir, your obedient servant,

F. W. SEWARD,
Acting Secretary.

JOSEPH A. WRIGHT, Esq., &c., *Berlin.*

Mr. Speed to Mr. Seward.

LOUISVILLE, *August* 12, 1866.

SIR: Herewith you will find a letter to our minister to Prussia, with a copy of the naturalization papers of Mr. S. Phillips. I will be greatly obliged if you will forward them, and render such good offices in the matter of Mr. Phillips's case as may be in your power.

I am, sir, most respectfully, your obedient servant,

JAMES SPEED.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington.

LOUISVILLE, *August* 12, 1866.

SIR: Simon Phillips, a native of Prussia, but now a naturalized citizen of the United States, has been forced into the Prussian army. Mr. Phillips when conscripted was on a visit to his parents in Strasbourg, West Prussia. According to the last reports he was with the army at Bromburg. I cannot learn in what regiment he is. That may be learned from the family of Mr. Phillips. His friends here will write to them to advise you promptly.

Mrs. Phillips earnestly desires that you will, if possible, get her husband released.

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I am informed that Mr. Phillips had with him a copy of his naturalization papers. As he may have lost or mislaid them, I enclose to you a copy.

Hoping that by your good offices you may be able to return Mr. Phillips to his sorrowing wife and family, I am, sir, most respectfully, your obedient servant,

JAMES SPEED.

Hon. JOSEPH A. WRIGHT,
Minister, &c., to Prussia, Berlin, Prussia.

Mr. Seward to Mr. Wright.

[Extract.]

No. 47.] DEPARTMENT OF STATE,
Washington, September 24, 1866.

SIR: * * * Some complaints have been made here of the arrest, by force as represented, of Charles Bergen and Charles Müller, on the American steamship Baltic, in the harbor of Bremerhaven, by order of the captain of the Prussian man-of-war Nymph. It is represented to have been unlawful and forcible. I trust you will follow that subject to an early and satisfactory explanation.

Will you suggest informally to Count Bismarck the inquiry, whether it would not be deemed consistent now with the dignity and greatness of Prussia to recognize the principle of naturalization as a natural and inherent right of manhood. In reflecting upon the subject, I am not able to believe that Prussia, any more than the United States, can or need to rely upon compulsory military service by subjects who have incorporated themselves as members of foreign states.

Secondly, I know of no circumstances which would tend to place Prussia on an elevation so high among the modern nations as the adoption of that principle which lies at the basis of the American republic.

* * * * * * * * *

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

JOSEPH A. WRIGHT, Esq., &c., *Berlin.*

Mr. Wright to Mr. Seward.

[Extract.]

No. 56.] LEGATION OF THE UNITED STATES,
Berlin, October 22, 1866.

SIR: * * * * * * * *

Enclosed will be found the correspondence with the Prussian authorities on the subject of the alleged arrest of Charles Müller and Charles Berger.

* * * * * * * *

If the Prussian government, in the answer of Baron Thile, has given a true statement of the facts, it seems to me that there is no further cause of complaint.

I have the honor to be, very respectfully, your obedient servant,

JOSEPH A. WRIGHT.

Hon. WILLIAM H. SEWARD,
Secretary of State.

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Mr. Wright to Count Bismarck.

UNITED STATES LEGATION,
Berlin, September 3, 1866.

SIR: The undersigned has the honor to call the attention of Count Bismarck, minister president, &c., to the alleged forcible arrest, on or about the 18th of July last, by order of the captain of the Prussian man-of-war Nymph, of Charles Berger and Charles Müller, on board the American steamer Baltic, lying in the port of Bremerhaven.

I have been advised that at the time of their seizure they were seamen on board of the said Baltic, and were a part of the crew shipped from the port of New York. They were on their return voyage, as per contract, and were embraced in the steamer's shipping list.

Their nationality as Americans was *prima facie*. If Berger and Müller were guilty of crimes it would have been more in consonance with the laws of nations and in accordance with the spirit of the age for this arrest to have been made by the proper officers under the legal authorities, than to have been taken by force from a vessel lying in any of the public harbors. Such a proceeding is not the best calculated to preserve law and order.

The undersigned presents the case for examination, not knowing the special charges alleged against the said persons, nor doubting but that his Majesty's government will, upon investigation, be able to make such a reply as will afford additional evidence of the long-established friendship existing between the two countries.

The undersigned takes this occasion, &c., &c.,

JOS. A. WRIGHT.

His Excellency Count BISMARCK, *&c., &c., &c.*

Baron Thile to Mr. Wright.

[Translation.]

BERLIN, *October* 19, 1866.

SIR: After the reception of your note of last month concerning the forcible arrest of the two seamen, Charles Berger and Charles Müller, from the American steamer Baltic, the undersigned called the immediate attention of the minister of marine to the affair.

From information received from the commander of the royal squadron, it appears that the affair did not occur as supposed in said note, but in the following manner:

During the first part of the month of July last the said Charles Müller, already engaged as an assistant engineer on the Baltic, a Prussian landwehrmann, still subject to the military laws, presented himself to the commander of the royal fleet to be received in the Prussian marine, and at the same time informed the commander that Charles Berger, a fireman on the Baltic, who also was still subject to the military laws, desired also to take service in the Prussian marine, but could not leave the steamer.

The commander *ad interim* of the port went on board of the Baltic to learn about Charles Berger, and he (Berger) was immediately released; the captain of the said steamer not objecting, but, on the contrary, found it all right.

According to this no force was resorted to, nor has any principle of international law been violated.

The undersigned doubts not but that this communication will be perfectly satisfactory, and place the affair, which has been misrepresented by the public papers, in its true light.

The undersigned takes this occasion to renew, &c, &c.

The Minister for Foreign Affairs,
(By authority,) THILE.

Mr. JOSEPH A. WRIGHT, *&c., &c., &c.*

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Mr. Hunter to Mr. Wright.

No. 49.] DEPARTMENT OF STATE,
Washington, October 29, 1866.

SIR: Herewith I enclose a transcript of a letter dated at Dresden, September 30, 1866, and addressed to the mayor of Philadelphia, (who has referred it to this department,) from Frederick Boettener, who is now compulsorily serving in the Prussian army. As you are already familiar with the facts in this case, I deem it unnecessary, in transmitting to you the accompanying paper, to do more than instruct you to use your good offices in behalf of Mr. Boettener, whose release it is hoped you may now be able to effect.

I am, sir, your obedient servant,

W. HUNTER, *Acting Secretary.*

JOSEPH A. WRIGHT, Esq., &c., &c., &c., *Berlin.*

OFFICE OF THE MAYOR OF THE CITY OF PHILADELPHIA,
October 23, 1866.

DEAR SIR: I am directed by the mayor to forward the enclosed letter to you.

Very respectfully,

J. HUTCHINSON KAY,
Mayor's Clerk.

Hon. WILLIAM H. SEWARD,
Secretary of State.

[Addressed to the Mayor of Philadelphia.—Translation.]

DRESDEN, *September* 30, 1866.

The undersigned takes the liberty of making a request of you, the result of which will influence his whole life.

When I was but fourteen years of age I came to the United States, in 1858; from 1863 to 1865 I served through the war as volunteer in the seventh Pennsylvania cavalry regiment, and when the war was over, I was discharged on the 25th of September, 1865, and was naturalized in Philadelphia as a citizen of the United States.

On the 30th September, 1865, I started to Berlin, my birth place, to finish my lithographic studies. There I was forced into the army, though I had left Prussia when I was fourteen. I sent a remonstrance to the United States minister in Berlin, and he wrote that he would take the necessary steps to procure my release; but, alas, nothing has yet been done. So, since the 30th of November, 1865, I have been serving in the first Brandenburg, (body grenadier regiment) No. 8, at first in the third, afterwards in the fifth, attached company, the regiment commanded by Colonel Von Berga.

My naturalization papers, consisting of a Prussian certificate and a discharge from the Union army, are kept from me, and I am threatened with castle prison if I try to get off. My every action is watched, and my correspondence inspected. Now, my request is that you send me a paper certifying I have done my duty as a soldier and a citizen; to do what you can to procure my discharge; to request the United States minister in Berlin to have my papers returned to me; and to demand of the Prussian government $1,000 per year, as damages and compensation for my loss of time. As a free American citizen, I think I

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have a right to expect protection from the government of my new home, the United States of America.

As I have no correspondent there, I address you; and, if you will take the trouble to grant my request, you may direct a letter to me in the Prussian garrison in Dresden.

With much respect, &c,

FRIEDRICK BOETTENER,
Fifth Company, First Battalion, Eighth Brandenburg Regiment.

Mr. Wright to Mr. Seward.

[Extract.]

No. 62.] UNITED STATES LEGATION,
Berlin, December 12, 1866.

SIR: I have the honor to inform you I am in receipt of your despatch, No. 51, dated November 26, 1866. I cannot express to you my surprise to find in this despatch Hugo A. Rempel represented as having been held by the Prussian government for non-performing of military duty. The within correspondence (which has been in the possession of the government for several weeks) will show that said Rempel had been exonerated from all military service when leaving Prussia as a minor.

I also enclose a copy of the reply of the Prussian minister to my application in his behalf, showing the causes why said Rempel was ordered to leave Prussia.

Upon receiving the reply from the minister, a copy was forwarded to his father, Rudolph Rempel, by the previous arrangement of his son, Hugo A. Rempel, who was then on his way to the United States, and who, I presume, is still in America.

No answer has been received either from the father or son, to be laid before the Prussian government, or it would have received my immediate attention. * *

I have the honor to be, most respectfully, your obedient servant,

JOSEPH A. WRIGHT.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington.

Mr. Wright to Baron von Wether.

LEGATION OF THE UNITED STATES,
Berlin, July 13, 1866.

The undersigned, United States minister, would most respectfully present to his excellency Baron von Wether's (minister of foreign affairs of his Majesty's government of Prussia) consideration the case of Hugo A. Rempel, a citizen of the United States. The said Rempel was born in Bielefeld, province of Westphalia, and emigrated to the United States when sixteen years of age, with the consent of the government of Prussia, which exonerated him from all liability to perform military service. After residing in the United States six years, he returned with an American passport to visit his parents and relatives, in December, 1865, his mother being greatly afflicted with paralysis, and threatened with congestion of the brain. For some cause, of which Mr. Rempel avers he is entirely ignorant, the landrut of Bielefeld has ordered him away from Prus-

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sia, only giving him eight days to arrange his affairs. The undersigned would further state to your excellency that said Rempel is the son of one of the oldest merchants of Bielefeld, Rudolph Rempel, a most respectable and worthy citizen. His son has his property in the United States and is engaged in purchasing merchandise for his business there. He is most anxious to remain until the first of October, to conclude his business arrangements, and, above all, to visit his mother once more, (who is at one of the baths,) and whom he has not seen for some weeks.

The undersigned has no hesitation in recommending to his Majesty's government of Prussia the granting of this request to said Hugo A. Rempel, and to assure your excellency that said Rempel will act as becomes a true and loyal citizen, obeying the laws and instructions of those in authority.

Trusting that this request may be found consistent with the views of your excellency, I renew to your excellency assurances of my distinguished consideration.

JOSEPH A. WRIGHT.

BARON VON WETHER,
Minister of Foreign Affairs, &c.

Mr. Thile to Mr. Wright.

[Translation.]

BERLIN, *September* 23, 1866.

SIR: The minister for foreign affairs has the honor to inform Mr. Wright, envoy extraordinary and minister plenipotentiary of the United States, in answer to his communication of July 13, 1866, that after a careful consideration of the case of Mr. Rempel, the government of his Majesty have found it impossible to grant permission for a continuance of his stay in Bielefeld, for the following reasons:

1st. Rempel left the country only to avoid military service.

2d. He says his residence in Bielefeld is only temporary, whereas the facts prove the contrary. He is engaged in business in the firm of M. M. Bear and Rempel at Bielefeld; consequently has no intention of returning to America.

3d. Rempel has shown a very determined opposition to the royal government, in words and deeds, and in such manner as to warrant his expulsion.

4th. He insulted every patriotic demonstration made by the people of Bielefeld in honor of the victories gained by the Prussian army during the summer.

5th. He insulted the soldiers who were in his father's house, in such manner as to require the intervention of the authorities.

6th. He insulted an officer of the army on the street, thereby disturbing the public peace.

In consideration of the above charges it is impossible to permit Rempel to remain in Bielefeld after the first of October, the term fixed by the authorities of Minden.

The minister of foreign affairs hopes Mr. Wright will agree with the views herein expressed, and will approve of the measures taken by the government.

Receive assurances, etc.

THILE,
For the Minister of Foreign Affairs.

MR. WRIGHT,
Envoy Extraordinary and Minister Plenipotentiary.

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Mr. Wright to Mr. Seward.

[Extract.]

No. 63.] LEGATION OF THE UNITED STATES,
Berlin, December 17, 1866.

SIR: I have the honor to enclose herewith the correspondence between the Prussian Foreign Office and myself, relating to the case of Francis Beundorf.

* * * * * * * * *

The royal government has recently issued a decree, by which if a citizen of Prussia emigrates, with or without permission, and is accompanied by his sons under seventeen years, and remains over ten years, they thereby lose their Prussian nationality. This virtually amounts to nothing, as the sons seldom return when their parents are in America. * * * *

I have the honor to be, very respectfully, your obedient servant,

JOSEPH A. WRIGHT.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington.

Mr. Wright to Count Bismarck.

LEGATION OF THE UNITED STATES,
Berlin, May 16, 1866.

SIR: I have the honor to call the attention of your excellency to the arrest and forcing into the army of the American citizen, Francis Beundorf.

The said Beundorf came to Prussia a short time since to convey his aged mother and sister to America, and notwithstanding he was provided with discharge papers from the United States army, showing that he was a citizen, the Prussian authorities compelled him to enter the service of the King, and he is now in the fourth regiment of Thuringes infantry, stationed at Torgan.

I do not doubt that your excellency will hesitate a moment in using your good offices in order to obtain the release of this American citizen, and permit him to return with his mother and sister to his adopted country.

Please accept assurances, &c., &c.

JOS. A. WRIGHT

His Excellency Count BISMARCK,
Minister President, &c., &c.

Mr. Thile to Mr. Wright.

BERLIN, *June* 23, 1866.

SIR: Francis Beundorf, in whose favor you interceded in your communication under date of May 16, 1866, received in the fall of 1862 a simple permit, valuable for eight days, to go to Leipsic. Instead of returning at the expiration of this document he went to America, whence he returned during the present year.

His unauthorized absence having lasted only three and one-fourth years, he, according to the law of December, 1842, retains his Prussian nationality. He should, therefore, fulfil his military obligations, and I regret exceedingly that I cannot obtain permission for him to leave the army.

I take this occasion, &c., &c.

Minister for Foreign Affairs,
THILE.

His Excellency Mr. JOS. A. WRIGHT.

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Mr. Wright to Mr. Thile.

LEGATION OF THE UNITED STATES,
Berlin, October 18, 1866.

SIR: During the month of May last I had the honor to call the attention of the Prussian government to the case of Francis Beundorf, an American citizen, now serving against his will in the royal army.

I have the honor to enclose herewith to your excellency a petition from the mother of said Francis Beundorf, praying that her son may be released from the army in order that they may at once return to his adopted country.

I should be greatly gratified if your excellency will intercede in his favor and recommend to his majesty the granting of the petition.

I take this opportunity to offer to your excellency the assurances, &c., &c.

JOSEPH A. WRIGHT.

His Excellency Mr. DE THILE,
Acting Minister for Foreign Affairs.

Mr. de Thile to Mr. Wright.

BERLIN, *December* 12, 1866.

SIR: In your communication of the 18th October last, you were pleased to send me a petition which the widow Rosine Beundorf, residing at Tenchern, district of Wersburg, addressed to the Prussian government, soliciting the release from the army of her son Francis Beundorf, in whose favor you had already interceded on the 16th of May last.

I did not fail to lay the said petition before the ministers of war and interior, who have just replied, that in consideration of the circumstances which I had the honor to state to you on the 23d June last, and which prove that the said Benndorf went to the United States in 1862, only with the intention of avoiding his military obligations in Prussia, they think that they should hesitate to support the prayer of the petitioner by referring it to the King.

I take this occasion, sir, to renew the assurance of my high consideration.

The Minister of Foreign Affairs,
THILE.

His Excellency Mr. WRIGHT,
Envoy Extraordinary and Minister Plenipotentiary.

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LETTER

OF

THE SECRETARY OF THE TREASURY,

COMMUNICATING,

In compliance with a resolution of the Senate of the 13th instant, information as to the number of persons employed under the acts for the collection of direct taxes in insurrectionary districts within the United States, and the amount of salaries paid.

MARCH 21, 1867.—Read, referred to the Committee on Finance and ordered to be printed.

TREASURY DEPARTMENT, *March* 20, 1867.

SIR: In reply to the resolution of the Senate of March 13, requesting information as to the number of persons employed under the acts for the collection of direct taxes in insurrectionary districts within the United States, and the amount of salaries paid, and as to whether any taxes are now being collected, and also asking my opinion as to whether the services of such persons, or any of them, may be dispensed with without detriment to the public service, I herewith transmit two letters from the Commissioner of Internal Revenue, to whom the resolution was referred for report. I have only to add that I concur with the Commissioner in the opinion that the services of all of these officers, except those employed in South Carolina and Virginia, may now be dispensed with unless it is contemplated to resume the collection of the taxes within a short time, and that the Virginia commissioners need be retained only till about April 1.

It will be well, however, in order to guard against possible difficulty, to insert in the law abolishing these offices a provision authorizing some other officer to issue the certificates of redemption provided for by section seven of the act of March 3, 1865, and to perform all the other duties connected with redemption which the present law devolves upon the Commissioner.

Very respectfully, your obedient servant,

H. McCULLOCH,
Secretary of the Treasury.

Hon. B. F. WADE,
President of the United States Senate.

TREASURY DEPARTMENT, OFFICE OF INTERNL REVENUE,
Washington, March 16, 1867.

SIR: The Senate resolution of March 13, 1867, calling for information relative to the direct tax, having been referred by you to this office for the particulars therein specified, I have the honor to report:

1. That there are now in office in each of the States of Virginia, South Caro-

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lina, Florida, and Tennessee, three direct tax commissioners, receiving a salary of $3,000 per annum; making the aggregate annual salaries of the commissioners $36,000 per annum. There has been a necessity, not now existing, for retaining the commissioners for these States in office, in consequence of sales of forfeited lands, the law granting a right of redemption for two years, which right is to be determined by the commissioners.

Clerks are employed to assist them, as follows: In the State of Virginia one, at a salary of $1,800 per annum; in the State of South Carolina one, at a salary of $1,800 per annum, and one of $1,500 per annum.

In the State of Tennessee there are authorized to be employed two, at a salary of $1,800 per annum each. The total amount for clerks' salaries being $8,700 per annum. Other assistants than those above enumerated are in the service of the South Carolina commission, to aid in performing the duties imposed by the Freedmen's Bureau act of July 16, 1866.

2. Unless it is contemplated to resume the collection of the direct tax within a short time, I am of opinion that the services of these persons may be dispensed with without detriment to the public service, except those employed in South Carolina, the commissioners for that State being charged, by the act of July 16, 1866, with duties not pertaining to the collection of the direct tax.

No collections of the tax have been made since the receipt by the officers engaged in the collection of your order of August 3, 1866, though the commissioners have been instructed to receive taxes from such persons as tender payment voluntarily, after being personally notified of the suspension of collections. Many tax payers have availed themselves of this privilege, for the purpose, as is supposed, of releasing their lands from the forfeitures created by law.

Very respectfully submitted,

THOMAS HARLAND,
Acting Commissioner.

Hon. H. McCULLOCH,
Secretary of the Treasury.

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE.
Washington, March 19, 1867.

SIR: Referring to my communication of 16th instant, I have the honor to report that an examination to-day of the joint resolution relating to the apportionment of direct tax to West Virginia shows duties which can be most conveniently performed by the direct tax commissioners for Virginia, and I suggest the expediency of their retention in office for a few days, say till April 1.

I have the honor to be, very respectfully,

E. A. ROLLINS, *Commissioner.*

Hon. H. McCULLOCH,
Secretary of the Treasury, Washington, D. C.

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MESSAGE

OF THE

PRESIDENT OF THE UNITED STATES,

COMMUNICATING,

In compliance with a resolution of the Senate of the 15th instant, information in relation to the disposition made of fees received by consular agents within the distrcits of salaried consuls.

MARCH 21, 1867.—Read; ordered to lie on the table and be printed.

To the Senate of the United States:

I transmit to the Senate, in answer to their resolution of the 15th instant, reports from the Secretary of State and the Secretary of the Treasury, with accompanying papers.

ANDREW JOHNSON.

WASHINGTON, *March* 20, 1867.

DEPARTMENT OF STATE,
Washington, March 18, 1867.

A resolution of the Senate of the United States, passed on the 15th of March, 1867, has been received by the Secretary of State, which is in the following words, namely:

IN THE SENATE OF THE UNITED STATES,
March 15, 1867.

Resolved, That the Secretary of the Treasury and the Secretary of State be directed, severally, to communicate to the Senate all information in the possession of either relative to the disposition made of that portion of fees received by consular agents within the districts of salaried consuls that have been by such consular agents paid over to such consuls, under the apportionment of fees of such agents by the President; and whether any salaried consul, now in office, has been permitted to appropriate, or has appropriated, to his own use, over and above the amount of his salary, any portion of such or any other fees; and if so, the name of the consul and the amount he has been permitted to appropriate or has appropriated, and under what regulation, if any, such appropriation has been authorized, and on what provision of law such regulation is founded.

Attest:

J. W. FORNEY, *Secretary*,
By W. J. McDONALD, *Chief Clerk*.

The Secretary of State has the honor to report, concerning the subject of the said resolution, as follows, namely:

On the 18th of August, 1856, the President approved an act of Congress to regulate the diplomatic and consular systems of the United States. Section 15 of the law thus approved enacts, among other things, as follows:

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"*And be it further enacted*, That * * * * * every consular agent shall be entitled, as compensation for his services, to such fees as he may collect in pursuance of the provisions of this act, or so much thereof as shall be determined by the President; and the principal officer of the consulate or commercial agency, within the limits of which such consular agent shall be appointed, shall be entitled to the residue, if any, in addition to any other compensation allowed him by this act for his services therein."

And the said act contained, in section 18, the following provision:

"And all such consuls general, consuls, commercial agents, and consular agents as are allowed for their compensation the whole or any part of their fees which they may collect pursuant to the provisions of this act, and all vice-consuls and vice-commercial agents appointed to perform the duties of said consuls general, consuls, and commercial agents as are allowed for their compensation the whole or any part of such fees as aforesaid, shall make returns of all such fees as they or any other persons in their behalf shall so collect, in such manner as the Secretary of State shall prescribe; and all such fees as shall be so collected, accounted for and reported, shall be reported annually to Congress with a report of the rates or tariffs or fees required by the seventeenth section of this act, with a full list of all the consular officers."

Subsequently to the enactment of the above-mentioned law, and in the year 1856, the President, through the Department of State, prescribed, among others, a "regulation concerning consular agents," numbered 112 in the "Consular Regulations," edition of 1856, and numbered 296 in the "United States Consular Manual," second edition, published at Washington in 1863, which regulation was founded on the provision of law hereinbefore recited, and being substantially in the same words therewith, and is still in force, namely:

"Every consular agent shall be entitled, as compensation for his services, to such fees as he may lawfully collect in pursuance of the provisions of the act regulating the diplomatic and consular systems of the United States, or so much thereof as shall be determined by the President; and the principal officer of the consulate or commercial agency, within the limits of which such consular agent shall be appointed, shall be entitled to the residue, if any, in addition to any other compensation allowed him by the act above mentioned for his services therein."

At the same time the President, through the Department of State, adopted and promulgated a regulation numbered 127 in the Consular Regulations of 1856, and numbered 379 in the Consular Manual of 1863, which last-mentioned regulation is in the following words:

"All consuls general, consuls, commercial agents, and consular agents, who are allowed for their compensations the whole or any part of the fees which they may collect pursuant to the provisions of the act, and all vice-consuls and vice-commercial agents appointed to perform the duties of said consuls general, consuls, and commercial agents, who are allowed for their compensation the whole or any part of such fees as aforesaid, are required to make returns to the Secretary of State of all such fees as they or any other persons in their behalf shall so collect; and all such fees as shall be so collected, accounted for and reported, are to be reported annually to Congress."

In conformity with the law and the regulations thus set forth, the President has annually transmitted to Congress, by message in writing, a report of the Secretary of State, setting forth the fees collected, accounted for, and reported by the consular officers of the United States for the year preceding the transmission of such report, together with a full list of all consular officers in office each year, and the place of their official residence. These messages of the President were received by Congress and read, and ordered to be printed, and they may be found among the executive documents printed by Congress, by references as follows:

Senate document No. 20, 2d session 35th Congress.
Senate document No. 9, 1st session 36th Congress.
Senate document No. 2, 2d session 37th Congress.
Senate document No. 1, 3d session 37th Congress.

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Senate document No. 2, 1st session 38th Congress.
Senate document No. 32, 2d session 38th Congress.
Senate document No. 63, 1st session 39th Congress.

The department's report for the year 1867 is now in course of preparation.

It is a practice of the Department of State to print and publish, as often as once in every year, a "List of diplomatic and consular officers of the United States," together with their compensation, places of official residence, States where born and whence appointed, and dates of appointment; also list of foreign ministers, &c., which list shows, in every case, the name and residence of the consuls and their compensation, whether by salary or fees, and their respective consular agents. This list shows also the names, districts, and locations of the several consular agents. A copy of each of such lists for the years 1860, 1865, and 1866, is herewith submitted. The law, regulations, messages, and documents thus either in the possession of Congress and duly referred to, or herewith submitted, contain full information, and all the information in the possession of the Department of State, in relation to the subject-matters inquired of by the resolution of the Senate.

This department has no knowledge that any salaried consul now in office has been permitted to appropriate, or has appropriated, to his own use, over and above the amount of his salary, any portion of such or any other fees otherwise than in conformity with the law before mentioned, and as authorized and directed thereby.

WILLIAM H. SEWARD.

The PRESIDENT.

TREASURY DEPARTMENT, *March* 20, 1867.

SIR: In reply to the resolution of the Senate dated March 15, 1867, to wit:

Resolved, That the Secretary of the Treasury and the Secretary of State be directed, severally, to communicate to the Senate all information in the possession of either relative to the disposition made of that portion of fees received by consular agents within the districts of salaried consuls that have been by such consular agents paid over to such consuls under the apportionment of fees of such agents by the President; and whether any salaried consul, now in office has been permitted to appropriate, or has appropriated, to his own use, over and above the amount of his salary, any portion of such or any other fees; and if so, the name of the consul and the amount he has been permitted to appropriate, or has appropriated, and under what regulation, if any, such appropriation has been authorized, and on what provision of law such regulation is founded.

Attest:

J. W. FORNEY, *Secretary*,
By W. J. MCDONALD, *Chief Clerk*.

The Secretary of the Treasury has the honor to report that the resolution was referred to the Comptroller of the Treasury, whose duty it is to examine and settle the accounts connected with the United States consuls, for a report on so much of the resolution as came within the province of the Secretary of the Treasury to answer, to which the Comptroller replied as follows:

TREASURY DEPARTMENT,
Comptroller's Office, March 19, 1867.

SIR: In reply to the resolution of the Senate of the 15th instant, referred to this office, I would state that I am unable to give information as to the amount or disposition of fees received by consular agents within the districts of salaried consuls, other than that published by the State Department; that I have no means of ascertaining the amount of fees paid over by said consular agents to consuls; that the only disposition known to have been made of surplus fees by salaried consuls is the payment of office rent, postages, and such expenses as are allowed by law, and sometimes in payment of salaries of consuls. In all cases where the fees are thus applied the proper charges have been made to such appropriations, and a corresponding credit given to the receipts for official fees.

Under instructions from the Treasury Department, consuls in Great Britain, France, and

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some other parts of Europe deposit the excess of consular fees, over charges allowed against the same, with Messrs. Baring Brothers & Co., subject to the control of the Secretary, and in some instances such fees have been transmitted to the treasury. The amount of "notarial" fees received by consuls is not known, as they are seldom reported in their returns to the accounting officers.

The resolution is returned herewith.

I am, sir, very respectfully yours,

R. W. TAYLER, *Comptroller.*

Hon. HUGH MCCULLOCH, *Secretary of the Treasury.*

The foregoing, it is believed, covers all the information on the subject of the resolution which this department can now furnish.

I have the honor to be your most obedient servant,

H. McCULLOCH,
Secretary of the Treasury.

Hon. B. F. WADE, *President of the Senate.*

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LETTER

OF

THE SECRETARY OF WAR,

COMMUNICATING,

In compliance with a resolution of the Senate of the 11th instant, further information respecting armed expeditions against the western Indians.

MARCH 21, 1867.—Read; ordered to lie on the table and be printed.

WAR DEPARTMENT,
Washington City, March 20, 1867.

SIR: Since the report of the 11th instant from this department, in reply to the Senate's resolution of March 8 respecting armed expeditions against the western Indians, was transmitted, a report of Lieutenant General Sherman has been received, and a copy thereof is now sent herewith, in further compliance with the resolution named.

Very respectfully, your obedient servant,

EDWIN M. STANTON,
Secretary of War

Hon. B. F. WADE,
President of the Senate.

HEADQUARTERS MILITARY DIVISION OF THE MISSOURI,
St. Louis, Missouri, March 13, 1867.

COLONEL: I have the honor to acknowledge the receipt of the communication of the honorable the Secretary of War, addressed to General Grant, dated March 8, instant, and indorsed to me from your office on the 9th instant, requesting "early information of military operations in progress or in contemplation in the Indian territory, or against Indians in the west," and in answer thereto beg to state that:

All the troops in the departments of Dakota, Platte, and Missouri, embracing the Indian country, have been and are now being placed in position to afford the best protection to the telegraph and mail routes across the plains, as well as to protect the four principal roads by which the emigrants travel, or merchants send their goods destined to the mountain territories. These troops will occupy posts, readily built, but designed for defence by a fraction of the garrison, while the balance can operate as escorts or expeditions between the posts.

Commanding officers of these posts or stations will act against all people who

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violate the laws of Congress, or who endanger the lives or property of our people, be they white, black, or copper-colored. When there are no courts or civil authorities to hold and punish such malefactors, we must of necessity use the musket pretty freely; the only weapon with which the soldier ought to deal. Peaceful people, whites, blacks, or Indians, will be left to be dealt with by the civil authorities and agents.

General Hancock, in the department of the Missouri, has organized a special force of about fifteen hundred (1,500) men, mostly of the seventh cavalry (a new regiment) and some infantry drawn from the inner posts, with which he will proceed in person to the country of the Cheyennes and Kioways, below the Arkansas, and will then confer with them to ascertain if they want to fight, in which case he will indulge them. If, however, they will assure him that they will remain at peace, subject to their treaties and agents, he will not disturb them, but impress on them the imprudence of assuming an insolent manner and tone when they visit our posts, and he will impress on them that it is to their interest to keep their hunting parties and their young warriors off our main lines of travel, where their presence gives the occasion for the many rumors which so distract our people. After he has done this, he will distribute this force so as to be again easily assembled if the occasion calls for it. His final orders are not yet made out, but will be in a few days, and I will endeavor to make them so as to leave him free to act, but not to create any trouble which should be avoided.

In like manner, General Augur, in the department of the Platte, has prepared a force of about two thousand (2,000) men, composed of the second United States cavalry and of infantry grouped about Fort Laramie, to be sent under a competent commander, General Gibbon, to the region of country on the head of Powder and Yellowstone rivers, to punish the bands of hostile Sioux who have infested that road for the past year; have killed many people, and are at open war. No mercy should be shown these Indians, for they grant no quarter nor ask for it. General Augur was instructed, if possible, by means of runners, to notify all Sioux who wished to avoid the fate of their hostile fellows, to come in to some one of our military posts on the Platte, where we would feed them temporarily and turn them over to the care of their proper agents. But inasmuch as Congress has lately provided for a commission to visit these Indians, and as these commissioners have reached Omaha, the headquarters of General Augur, I have instructed him to delay actual hostilities until these commissioners have exhausted their efforts and reported to him their inability to influence the conduct of the hostile Sioux by pacific measures. I have not yet made final orders for this movement, and will delay them till we learn by telegraph at Fort Laramie that the country about forts Phil. Kearney and C. F. Smith is practicable for military operations.

In reference to these two expeditions, which are all we can undertake with our present force, I will remark that defensive measures will not answer against Indians. We are tied down to long routes, and our detachments are necessarily small, hardly enough to build shelters and gather firewood, the materials for which have to be hauled two and three hundred miles, while the Indians move hundreds and thousands of miles, taking along with them their ponies, lodges, wives and children. They are thus enabled at one time to attack or molest our roads at one point, and in a month or so make their appearance at another, hundreds of miles distant. Our troops must get among them, and must kill enough of them to inspire fear, and then must conduct the remainder to places where Indian agents can and will reside among them, and be held responsible for their conduct.

There may be Indian agents duly commissioned for these Indians that we

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know to be hostile, but they do not reside with the Indians, and they are not as competent to judge of their hostile character as our military officers who come into constant contact with them.

I have the honor to be your obedient servant,

W. T. SHERMAN,
Lieutenant General, Commanding.

Lieut. Colonel GEO. K. LEET,
Ass't Adj't Gen., Headquarters of the Army,
Washington, D. C.

[Indorsement.]

Respectfully forwarded to the Secretary of War.

U. S. GRANT, *General.*

MARCH 18, 1867.

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LETTER

OF

THE SECRETARY OF WAR,

COMMUNICATING,

In answer to a resolution of the Senate of June 11, 1866, *a copy of General Humphrey's report to the War Department on the levees of the Mississippi.*

JUNE 15, 1866.—Read and referred to a Select Committee on the subject of repairing the leeves on the Mississippi river.

JULY 2, 1866.—Bill S. 405, reported with report No. 126.

MARCH 21, 1867.—Ordered to be printed, and that 5,000 additional copies be printed for the use of the Senate.

WAR DEPARTMENT,
Washington City, June 14, 1866.

SIR: I have the honor to send herewith a copy of General Humphrey's repot to the War Department on the levees of the Mississippi river, called for by the Senate's resolution of June 11, 1866.

Very respectfully, sir, your obedient servant,

EDWIN M. STANTON,
Secretary of War.

Hon. L. F. S. FOSTER,
President of the Senate.

WASHINGTON CITY, D. C,
May 31, 1866.

SIR: The examination and survey of the levees of the Mississippi river, consequent upon your instructions to me of December 11, 1865, having been completed, and the maps, &c., prepared, I submit a general view of the condition of the levees from the mouth of the Ohio river to the Gulf of Mexico, with an indication of those points where repairs are most urgently required, to prevent great injury to the agricultural interests of the alluvial region of the Mississippi, as well as to commerce.

The topographical feature of the alluvial district in which the break is situated, the position and magnitude of the break, and the extent of cultivated land thereby rendered liable to inundation, have formed my guide in determining upon the points of repair.

I have excluded from consideration, as not coming under your instructions; those cases where the levees have been virtually destroyed along so great an extent of river front, that their repair would be practically the rebuilding of the leeves of that section of country.

The great alluvial districts will be considered in the order in which they follow in descending the river from the head of the alluvial region near Cape Girardeau.

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I.—St. Francis Bottom.

This district extends from the highlands of Cape Girardeau to the mouth of the St. Francis river, near the highlands of Helena. Its area is 6,300 square miles.

The levees from Cape Girardeau to New Madrid must be considered local in their character, since the extensive tertiary or diluvial prairies (land above overflow) running parallel to the general course of the river, (one of which crosses the river at New Madrid and at Point Pleasant,) prevent any general overflow being caused by breaks in the levees in that extent of river front. These levees are in ordinary condition.

From New Madrid to the boundary line between Missouri and Arkansas the levees are in a tolerably good condition, and, as a portion of the levee fund derived from the sale of the swamp lands transferred to the States by the United States for the purposes of reclamation is said to remain unexpended, the condition of these levees requires no special attention.

The levees of Mississippi county, Arkansas, extending from the Missouri boundary line to the Shawnee villages, (a point on the river above overflow, about 35 miles above Memphis,) need repairs of breaks and closures of gaps at eight places. These openings in the levee are not of great extent, except at two points, one above and one below the Shawnee villages; but some are of great depth.

This county has laid a tax of ten cents per acre to repair the levees, which is deemed ample for the purpose.

For this reason, and for others that will appear in connection with what is stated concerning the levees below Memphis, I do not recommend any repairs by the United States in this county.

The following is a list of the breaks and gaps in the levee on the front of Mississippi county:

Location.	Length, yards.	Depth in feet.
1. Bearfield Point, break	Small.	Small.
2. Mrs. McGavock's, near Osceola, break	Small.	Small.
3. Lamar's place, above Island No. 34, gap	30	30
4. Nodina place, bend of Island No. 34, gap	30	30
5. Morgan's and Craighill's, below foot of Island No. 34, break	440	5
6. Pecan Point, at the foot of Island No. 35, (unleveed bayous—Barney's)	30	30
7. Above Shawnee village, (high land in bend of Island No. 37)	3,500	12–15
8. Below Shawnee village, (high land in bend of Island No. 37)	5,300	10–12

From the Shawnee villages to the point opposite Memphis (part of Crittenden county river front) there are but two breaks in the levee.

At Morris's, thirty miles above Memphis, ten yards long, and forty feet high.

At Fogleman's, seven miles above Memphis, 300 yards long, and from twelve to fifteen feet high.

From the point opposite Memphis to the mouth of the St. Francis river (part of the fronts of Crittenden and Phillips counties) the levees may be considered as virtually destroyed.

For thirty miles below Memphis one-half of the levees are gone, chiefly in the bends where they were highest.

For the remaining distance to the mouth of the St. Francis river (about forty miles) the levees may be considered entirely gone. For this whole length of river front, some seventy or eighty miles in length, new levees will be required, placed further back from the river bank than the old levees.

The lower portion of the St. Francis bottom is subject to overflow by crevasse water coming from breaks or gaps in the levees above.

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The volume of this flood is sometimes so great that in returning to the river near the St. Francis it washes away the levees on the Mississippi front. For this reason, until that portion of the St. Francis bottom above Memphis is securely leveed, a considerable part of the portion below it cannot be fully protected by front levees.

With a view to keep out the Mississippi flood from the interior alluvion, a project has been set on foot to construct a railroad from the bank of the Mississippi river opposite Memphis, along a succession of short ridges which run nearly parallel to the river, and about eight miles from its general course, up to the vicinity of Osceola, and thence diverge westward across the bottom lands to connect with the Iron Mountain railroad of Missouri. The road-bed is to serve as a levee, a branch from it to be extended to the river bank above Osceola, when the road turns to cross the bottom lands. The permanence of the road-bed is secured by its distance from the river bank, eight miles; which is beyond the limit of caving banks, the chief source of the destruction of the levees.

Should this project be executed, immense tracts of interior bottom land of great fertility would be reclaimed, and the plantations below Memphis would be exempted from overflow from the rear.

The temporary repair of levees in the condition of those of the St. Francis bottom below Memphis was not contemplated by your instructions.

The temporary repair at present of the two large gaps above Memphis would only confer a local benefit. The high grounds in their vicinity restricts the spreading of the water flowing through them, which passes to the interior swamps and bayous, and thence to the mouth of the St. Francis.

The repair of the levees of the St. Francis bottom may be estimated at over 2,000,000 cubic yards of embankment at the cost of more than $800,000.

II.—From the high grounds at Helena to the high ground near Gaines's landing, on the right bank of the Mississippi.

The levees of this comparatively limited alluvial tract must be considered local for any objects contemplated by the United States.

Between Helena and Bob's bayou, near the mouth of White river, there are several breaks in the levee, some of which the planters are repairing, as between Helena and Oldtown ridge, and at Laconia. At the latter place they are constructing rear levees, and are thus cutting off their plantations from the effects of the neglect or failure of those living above them. From the mouth of White river to the mouth of the Arkansas no levees have ever been built.

Those of the narrow strips of alluvion between the mouth of the Arkansas and the high ground near Gaines's landing are very much broken, the river having eroded its banks and carried away the levee near Napoleon and in Cypress bend.

III.—The Yazoo bottom.

From Memphis to Vicksburg, left bank; area 6,800 square miles.

1. *De Soto county.*—The breaks in the levees of this county are not of material importance; no surveys were made of them. On the Mississippi river front the breaks amount to 1½ mile of levee, 5 feet high; on the Horn lake front, to 1 mile of levee 8 feet high, and 2 miles 5 feet high. Contents of both fronts in cubic yards, 150,000; which, at 35 cents per cubic yard, will cost $52,000.

2. *Tunica county.*—No surveys were made in this county, owing to the high stage of the river when the engineer party reached it. The extent of the breaks has been measured by the county officers, and the result communicated to Colonel Abbot by the sheriff.

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Location.	Length.	Height.	Remarks.
	Miles.	*Feet.*	
From North county line to Commerce	1	9	460,000 cubic yards, at 35 cents per cubic yard, amounting to $161,000.
From Commerce to Austin's	1⅛	12	
From Austin's to Harbert's	2	8	
From Harbert's to O'Neill's	2	5	
From O'Neill's to Nail's bayou, opposite Helena	1¼	7	
From Nail's bayou to South county line	2	8	

The crevasse water through these breaks drains to the cold water through a region not so much opened as the counties below, and although considerable damage is done by the overflow thus caused, yet the comparative injury done was not, in my judgment, of sufficient magnitude to justify the temporary repairs of all or of any of the breaks.

3. *Coahoma county.*—The breaks in the levees of this county were carefully surveyed. The first is the levee of the Yazoo pass, which was cut, for military purposes, in two places in 1863—one in the pass where the levee was 38 feet high, the other about one mile below, where the levee is 18 feet high. This Yazoo Pass levee is 1,200 feet long, with an average height of 28 feet. It was built in 1858, after several unsuccessful attempts, across swampy ground, with quicksand in places difficult to build upon. Owing to the great depth of the cuts in this levee, they let in a large volume of water and flood a great extent of cultivated land on the Sunflower, Coldwater, and Tallahatchie rivers. The repair of this levee I deemed to be one of the cases contemplated in your instructions.

Number of break.	Length.	Height.	Contents.	Price.	Amount.
	Feet.	*Feet.*	*Cubic yards.*	*Cents.*	
First	450	40&20	80,000	60	$48,000
Second	420	21	50,000	60	30,000
Total	.....	.....	130,000	.....	78,000

The points of repair are difficult of access, and the earth to fill in the breaks must be hauled a great distance. Sixty cents per cubic yard is, perhaps, too low an estimate. The other breaks, excepting the break in the Lewis's Swamp levee, are:

Location.	Contents.	Price.	Amount.
	Cubic yards.	*Cents.*	
2. Roselle's, 2 miles above Friar's Point	37,000	40	$14,800
3. Friar's Point	3,600	40	1,440
4. Miller's, near Friar's Point	28,000	40	11,200
5. Old Port Royal swamp	21,000	40	8,400
6. Fontaine's	10,000	40	4,000
7. Beard's	20,000	40	8,000
8. Mapleton's	20,000	40	8,000
Total	139,600	.....	55,840

These breaks did not, in my judgment, come under the rule prescribed in your instructions for determining what breaks should be temporarily repaired.

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The next break in order, and the last in Coahoma county, is—

9. The break in Lewis's Swamp levee, Sunflower landing. This break is two and a half miles long in a bend of the river, where the bank is caving rapidly, and has approached to within 2,000 feet of Hushpuckana bayou. The upper part of the break is in Lewis's swamp, which near the river bank has been much filled up by the deposit of the crevasse. The other part of the swamp is, however, very low.

The fall of the flood water into Hushpuckana bayou has washed out a deep gully from the bayou to within a short distance of the river bank. The flood of this year may complete the connection of the gully with the river, and form a pass to the Hushpuckana, similar to that of the Yazoo pass, and to the detriment of the country below.

The quantity of water that passed through this crevasse was so great as to fill the swamps in the vicinity nearly to the level of the river surface, to flood the country to a considerable distance above, and to overflow a great extent of cultivable land below in Bolivar county.

The repair of the levee at this point was, in my judgment, one of the cases contemplated in your instructions. To repair it by throwing up a levee from one end of the break to the other, passing near Hushpuckana bayou, and through Lewis's swamp, sufficiently far from the river to insure the levee from destruction, until the river should wear into the Hushpuckana, was impracticable at the late season of the year at which my examination was made.

Foreseeing the difficulty and the delay likely to occur in constructing such a levee, and the temporary character of the protection it would give, the planters east of Hushpuckana bayou set on foot to build a levee ten miles long up the east bank of Hushpuckana bayou, beginning at some high grounds near Sunflower landing, and extending to Wimbush's. This would render their plantations in a manner secure. To perfect this security the two lines of their levee must be united to the levee on the river bank. Five miles of this levee east of the Hushpuckana were under contract, and the work on it progressing well at the time of my examination of this locality in the latter part of December last.

Hushpuckana bayou now serves merely as a drain to the downfall upon a narrow belt of land along its course of 30 miles, from its head at Old Port Royal to its mouth in Sunflower river. Formerly it was open to the river at Old Port Royal, and hence the high ground along its eastern bank.

By running a levee from the lower end of the Lewis's Swamp break, at Grant's plantation, across the Hushpuckana, to its east bank, protection would be given to the great body of cultivated land overflowed by this crevasse, since there was no doubt that the building of such a levee would insure the simultaneous extension to Wimbush's of the planter's levee already referred to. This project I approved, but its execution would still leave subject to overflow by the backwater of the crevasse some four or five thousand acres of cultivated land situated on the river above the break—comparatively a local matter.

To fix the location of the levee from Grant's to the east bank of the Hushpuckana, to ascertain how far it was practicable to protect the plantations from backwater by throwing up a levee above the break, and running from the river bank to the east bank of the Hushpuckana, and to ascertain the practicability and cost of building the levee through to Lewis's swamp, I directed certain surveys to be made. The result of these surveys is as follows:

Repairing the break by a line through Lewis's swamp, 3½ miles long, contents, cubic yards, 190,000. But the located line, in crossing Lewis's swamp, keeps so near the river bank (in order to pass over the deposit of the crevasse) that the levee would soon fall into the river by the caving of the bank. Keeping 2,000 feet from the river, the quantity of embankment will be greatly increased, and will not be less than 400,000 cubic yards.

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For the lower levee:

From Grant's to Hushpuckana, contents	79,000
Crossing Hushpuckana	28,000
Total of lower cross levee, cubic yards	107,000

Lewis's swamp extends up the west bank of the Hushpuckana a considerable distance, and the first practicable point of crossing is some five or six miles above Sunflower landing, (12 miles by the river,) at Robson's. From Robson's to Totten's, on the east bank of the Hushpuckana, is six miles; contents of levee, 435,000 cubic yards. This cross levee would leave some 1,500 acres of cultivated land below it exposed to overflow from the backwater of Lewis's swamp crevasse. It would also make dead water in the Hushpuckana bayou, for six miles above, and turn the bayou at that distance into Harris's bayou, which connects the Hushpuckana with the Sunflower. The levees required to protect the plantations from overflow, caused by this backing up of the rain drainage of this part of Hushpuckana bayou, would be small. It is evident that an expenditure like the preceding, for the end in view, was not contemplated by your instructions.

As a temporary protection to the region in question, the levee across Lewis's swamp may be built in the ensuing fall. It is a legitimate expenditure under your instructions, and not disproportionate to the amount of saving of crops it will effect, although as part of a whole system it is not an economical application of means to an end.

Repair of Lewis's swamp levee, by a line from Grant's west of the Hushpuckana and across Lewis's swamp to the upper end of the break, contents 190,000 cubic yards, which, at forty cents per yard, amounts to $76,000; or, the inner line being chosen, contents 400,000 cubic yards, at forty cents per cubic yard, amounts to $160,000. As the board of levee commissioners for the State of Mississippi has been reorganized, and the former chief engineer of the levees has been re-elected to that office, a project for the permanent protection of the region just treated of will demand their attention at an early day. The problem is a somewhat intricate one, and as the chief elements for the solution were collected by the surveys made under the direction of Colonel H. S. Abbot, United States engineers, in accordance with my instructions to him, I will here state their principal results.

A levee from Grant's to the east bank of the Hushpuckana, and up the east bank of that bayou to its head, at Old Port Royal, on the Mississippi. Length of levee, 18 miles; contents, exclusive of levee already built, 685,000 cubic yards. This will leave about 5,000 acres of cultivated land (the plantations below Wilkinson's landing) subject to overflow from backwater of the crevasse at Lewis's swamp, to keep out which back levees along these plantations will be required.

A levee from Grant's to the east bank of the Hushpuckana and up the east bank to Wimbush's; thence across the Hushpuckana to Wilkinson's landing, on the Mississippi. Length of levee, 15 miles; contents, exclusive of levee already constructed, 611,000 cubic yards. This will leave 4,500 acres of cultivated land below it subject to the backwater of the crevasse at Lewis's swamp, to keep out which back levees on those plantations must be constructed.

A levee from Grant's to the east break of the Hushpuckana, and up the east bank to Totten's; thence across the Hushpuckana to Robson's, on the Mississippi. Length of levee, 13 miles; contents, exclusive of levee already constructed, 637,000 cubic yards. This will leave some 1,500 acres of cultivated lands below it exposed to overflow from the backwater of the Lewis's swamp crevasse, to protect which back levees must be built. Small levees may be re-

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quired on some of the plantations above, to keep out overflow from the backing up of the Hushpuckana, five or six miles, to Harris's bayou, through which the drainage of the Hushpuckana must pass to the Sunflower.

The maps and profiles prepared from the surveys made under direction of Colonel Abbot contain all the details of these projects. The contents of the levees have been computed with six feet thickness at the crown and slopes of three and two to one; the levee across the Hushpuckana with a thickness of ten feet at the crown and slopes of four and two and a half to one.

4.—*Bolivar county.*

1. The Break at Prentiss.—A cut-off occurred at Napoleon on March 11, 1863, that turned the current of the river against the bank opposite, at Prentiss, which is being rapidly eroded; already some 8,000 feet of the levee has been carried off.

2. Three breaks in the bend below Prentiss, in Bolivar bend, over a mile in length, where the levee is high and the banks caving. Two of these were cut by our forces in connection with military operations.

3. The break at Eastin's, Choctaw bend, is over a mile in length where the levee is high.

These are the only breaks in Bolivar county. The crevasse water through them floods an extensive district of cultivated land, over 100,000 acres in Bolivar and Washington counties, on the Mississippi river, Deer creek, and Bayou Falaya. Their repair, in my judgment, came under your rule.

It was not easy to decide how to repair the break at Prentiss. To solve the question, certain surveys were made. Their results are as follows:

The deep sloughs near Prentiss Point oblige a levee intended merely to close the break to be located so near the eroding bank that it would be carried away in a year or two. The contents of such a levee (with the repair of small breaks just below) are 132,000 cubic yards.

A permanent repair may be effected by a levee from Stark's to Prentiss along the east bank of Swan lake; contents, 125,000 cubic yards. This leaves exposed to flood about 2,000 acres of cultivated land, and some 6,000 acres of wild land.

A third mode of repair is by a levee from Dr. Niblett's to Hiblard's, along the east bank of Vermilion lake; contents, 135,000 cubic yards.

This leaves exposed to flood 4,000 acres cultivated land, and 11,000 acres uncultivated land.

1. The Swan Lake route is the best and is recommended; contents, 125,000 cubic yards.

2. One of the cuts in the Bolivar Bend levee has been repaired by the planters. The repair of the others in the most temporary manner will require levees with contents of 35,000 cubic yards.

3. For repair of break at Eastin's; contents, 69,000 cubic yards.

5. *Washington county.*—The breaks in the levees of this county were repaired by the planters with the exception of that in Miller's bend, which was under contract; but the available means of the planters did not admit of its completion. The total amount of work required was 108,000 cubic yards, one-half of which was finished.

The crevasse water through this break floods an extensive area of cultivated land. The completion of its repair will require a levee, with contents of 50,000 cubic yards.

Issaquena county.—The only break of importance in this county is at Colonel Christmas's, in a bend of the river about twelve miles below Providence. This break began in March, 1861, and extended down through Brown's and part of

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Coffield's plantations, being now more than two miles in length. The bank is caving rapidly throughout this extent. Its repair requires a levee with contents of 100,000 cubic yards. This crevasse floods some 8,000 acres of cultivated land below it, and, to a considerable extent, the plantations above it. It was a question with me whether it was of sufficient importance to come under the rule of your instructions, and no requisition for means to repair it was made by me. If an appropriation is asked for, it should probably be included with the estimate as above. This completes the levees of the Yazoo bottom.

A board of levee commissioners has been organized for the counties of Bolivar, Washington, and Issaquena, with authority to raise funds for repairing the levees by the issue of bonds to the amount of $1,000,000, secured by a tax on land. The president of the board, Colonel Field, was not sanguine that these bonds could be made available. The amount of work required for the temporary repair of all the breaks in the levees of the Yazoo bottom, the great alluvion of the State of Mississippi, is therefore:

County.	Contents.	Price.	Amount.
	Cubic yards.	*Cents.*	
De Sota	150,000	40	$60,000
Tenica	460,000	40	184,000
Coahoma	460,000	40&60	210,000
Bolivar	229,000	40	91,600
Washington	50,000	40	20,000
Issaquena	100,000	40	40,000
Total	1,449,000		605,600

But repairs of such magnitude should be made permanent. Mr. Minor Merriweather, chief engineer of the levees of the Mississippi, in his annual report of July 1, 1861, gave a detailed statement of the cost of repairing the levees at those points which required immediate attention. The total amounted to $750,000. No repairs were put upon those levees during the war, and many of them are now broken. The cost of a cubic yard of embankment is at present double what it was in 1861, and the cost of the more permanent repair of the levees of the State of Mississippi may, therefore, be estimated at $1,500,000.

For the temporary repair of the breaks in the levees at the most important points on the Yazoo front, I have estimated:

Location.	Contents.	Price.	Amount.
	Cubic yards.	*Cents.*	
1. For the Yazoo Pass levee	130,000	60	
2. For the Lewis's swamp levee	190,000	40	
3. For the Bolivar county levee	229,000	40	
4. For Miller's bend levee	50 000	40	
5. For Christmas's bend levee	100,000	40	
Total	699,000		$305,000

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IV.—The Sensas bottom.

This alluvial district extends from Gaines's landing to the mouth of Red river; its area is 4,000 square miles.

The levees of the narrow strips of alluvial land between Gaines's landing and the boundary line of Arkansas and Louisiana are in very bad condition; the sum of the lengths of the breaks, nine in number, amounting to six miles, mostly of high levee. The levee is, besides, much worn in many places.

In the bend above Columbia, the bank is caving badly. There are two breaks here at Belleview and Pastoria.

Localities.	Length.	Height.	Cont'nts.
	Miles.	*Feet.*	*Cu. yds.*
1. Belleview (Session's)	½	12	45,000
2. Pastoria (Session's)	1	15	150,000
3. Fords Belle Point, American cut-off	¼	12	135,000
4. Mathew's Bend levee, (cut off by the enemy to flood the country below and embarrass General Grant's movements).	½	20	120,000
5. Polk's, above Grand lake	¼	12	50,000
6. Below Grand lake	⅛	8	10,000
7. Flournoy's	⅛	7	10,000
8. Ballard's	¼	7	30,000
9. Near State boundary line	⅜	12	34,000
Total	⅜		584,000

Besides the local importance of these breaks, the crevasse water through them floods the land below on the Tensas. A part of the flood through the breaks above Columbia passes into the Bœuf, and does not reach the Tensas bottom. Their importance in connection with that bottom is not as great relatively as that of the breaks below Columbia.

Adopting Ford's, Polk's, and the two larger near the State boundary line, for temporary repair, we have three and a quarter miles of levee—contents, 259,000 cubic yards. The remaining breaks must be left to the State of Arkansas, or to Chicot county, or to the planters.

The State of Louisiana undertook the repair of its levees last winter, and for that purpose divided her alluvion into two parts—the first division extending from the Gulf to the mouth of Red river, the second comprising all alluvial land above Red river.

Mr. J. A. d'Himicourt was appointed chief engineer of the first, and Mr. J. A. Porter chief engineer of the second division.

The principal breaks in the levees of the second division are those now to be named; they will comprise the list of breaks in the Tensas bottom.

1. At Ashton's landing, near the northern boundary of Louisiana, there are three breaks in the levee, where it was cut by our troops in 1863 for military purposes. The sum of the breaks amounts to 1,200 yards of levee, exceeding fourteen feet high. Contents, 100,000 cubic yards.

2. At Providence the levee was also cut by our troops in 1863 for military purposes. The closure of this break has probably been completed by the State or county. It was not extensive.

3. The levee at Bass's, four miles below Providence, which is twelve feet high, has a break two miles in length. (The volume of water that passes through this break is enormous.) Contents of the repair levee, 200,000 cubic yards.

4. There is a small break at Haws Harris's plantation, at the boundary line of Carroll parish. As a permanent protection at this point, it is proposed by the State engineer to run a levee across Terrapin neck, one and a half miles long. Contents, 100,000 cubic yards. The river made a cut-off here this spring.

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5. At Young's Point, opposite the mouth of the Yazoo river, the levee, over eight feet high, was broken half a mile in length. It has been repaired by the State engineer.

6. The breaks in Milliken's bend, which were small, have also been repaired by the State engineer.

7. Opposite Vicksburg, where our troops endeavored to make a cut-off, the breaks amount to 450 yards. The length of the enclosing levee which the State engineer is building is 4,400 feet; height, ten feet. Contents, 96,000 cubic yards.

8. At Brown and Johnson's, six miles below Vicksburg, the break in a low, caving, and gullied bank is 1,600 feet long. The enclosing repair levee of the State is to be 7,000 feet long, with an average height of thirteen feet; one-half of this has been built by the State. Contents of the remaining half, 75,000 cubic yards.

9. In Dimond Island bend, the breaks, one-half mile in length, have been repaired by the State engineer; a new levee will be built, one and a half miles long and nine feet high. Contents, 100,000 cubic yards.

10. At Point Pleasant, on Buckner's place, a break 3,200 feet long in a caving bank, requires a new levee two miles long, nine feet high. Contents, 105,000 cubic yards. No work was done here by the State engineer at the close of March, 1866.

11. At Alligator bayou, five miles above Grand Gulf, or two miles above Hard Times landing, there are breaks 300 yards long. The repair levees will not be less than 1,000 yards long, and twelve or fifteen feet high. Contents, 60,000 cubic yards. Not much progress was made upon the repair levee at the close of March.

12. At Kemp's, ten miles above Rodney, an extensive break in a caving bank requires a new levee over two miles long, eight feet high. Contents, 60,000 cubic yards. This levee was probably finished by the State engineer by the last of March.

13. The breaks in Concordia parish were probably closed by the State engineer; they were not very important, and amount to 100,000 cubic yards.

This completes the list of breaks in the levees of the Tensas bottom. The break in the Bass levee is by far the most important of all. The crevasse water through it floods nearly as much land as that of all the chief breaks below it.

The cotton crop of 1860, of the four parishes of Louisiana situated in this bottom, was about 240,000 bales. The points selected for temporary repair are:

Locality.	Contents.	Price.	Amount.
	Cubic yards.	*Cents.*	
1. The Ashton landing breaks	100,000	40	
2. The Bass Levee break	200,000	40	
3. The Brown and Johnson break	75,000	40	
4. The Point Pleasant break	105,000	40	
Total	480,000		
This added to breaks above State line	259,000	40	
Gives for total of Tensas bottom	739,000		$295,600

V.—THE DELTA OF THE MISSISSIPPI.

This designation is given to the alluvion below the mouth of Red river, because at that point the Mississippi river begins to divide, throwing off the Atchafalaya, which finally empties into the Gulf.

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The breaks in the levee between the mouth of Red river and the Gulf are so numerous that I shall only mention in detail those great breaks the volume of water pouring through which, in high water, inundates immense tracts of cultivated land, and the repair of which is therefore recommended.

1. At Morganza, where the high levee is broken for the space of nearly a mile, requiring for repair a levee 7,400 feet long, over 12 feet high. Contents ..... Cubic yards. 200,000
2. At Scott's, five miles above Bayou Sara, where a break of over half a mile in a caving bank requires for repair a nine-foot levee over a mile long. Contents 94,000
3. At Robertson & Chime's, ten miles above Baton Rouge, where a break of two miles in a levee thirteen feet high requires a new levee, with contents of..... 250,000

Total for Delta of the Mississippi..... 544,000

Which at 40 cents per cubic yard, is $217,600.

There were three other points where the breaks were of magnitude—the Parish levee at Red river, the Grand levee, and Hereford's levee—the repair of which will require some 240,000 cubic yards, but they are of less importance than those adopted.

Besides the three adopted, there are 56 breaks in the levees below the mouth of Red river, the repair of which will require 1,020,000 cubic yards.

The following is a recapitulation of the repairs recommended by me to be made under your instructions of December 11th last:

	Contents.	Price.	Amount.
The Yazoo bottom.			
	Cubic yards.	*Cents.*	
1. The Yazoo Pass levee	130,000	60	
2. The Lewis's Swamp levee	190,000	40	
3. The Bolivar county levees	229,600	40	
4. The Miller's Bend levee	50,000	40	
5. The Christmas	100,000	40	
Total	699,000	.....	$305,000
The Tensas bottom.			
1. Ford's Belle Point levee, Arkansas	135,000	40	
2. Polk's Grand Lake levee, Arkansas	50,000	40	
3. Ballard's levee, Arkansas	30,000	40	
4. Near the State boundary, Arkansas	34,000	40	
5. The Ashton landing levee, Louisiana	100,000	40	
6. The Bass levee, Louisiana	200,000	40	
7. The Brown and Johnson levee, Louisiana	75,000	40	
8. The Point Pleasant levee, Louisiana	105,000	40	
Total	739,000	.....	$295,600
The Delta of the Mississippi.			
1. The Morganza levee	200,000	40	
2. The Scott levee	94,000	40	
3. The Robertson and Chinn levee	250,000	40	
Total	554,000	.....	$295,600

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RECAPITULATION.

	Cubic yards.	Amount.
1. The Yazoo bottom	699,000	$305,000
2. The Tensas bottom	739,000	295,000
3. The Delta of the Mississippi	544,000	217,000
Total	1,982,000	$817,000

The cotton crop of 1860, of that portion of the alluvial region above the mouth of Red river where it is proposed to make these repairs, must have exceeded 600,000 bales, a tax of one cent per pound on which would amount to $2,700,000.

The value of the crop at present prices is $108,000,000.

The sugar crop of 1860, of that part of the alluvial region below the mouth of Red river where it is proposed to make these repairs, amounted to 241,000 hogsheads of sugar, and 317,000 barrels of molasses, the value of which at present prices is $50,000,000.

The foregoing statement presents a tolerably fair exhibition of the condition of the levees of the Mississippi river. Those of the St. Francis bottom have, from their dilapidated state, seemed to be excluded from consideration. The most important breaks in those of the other three great alluvial districts have been recommended for repair.

The complete and permanent repair of all the leeves of the river would require—

1. For the State of Arkansas, 3,000,000 cubic yards	$1,200,000
2. For the State of Mississippi	1,500,000
3. For the State of Louisiana, 3,000,000 cubic yards	1,200,000
Total for permanent repair of all the levees	3,900,000

The repairs put upon the levees of the State of Louisiana during the past winter amounted, on the first of March, to 700,000 cubic yards.

Before concluding this subject, I desire to ask attention to the recommendation on pages 417 to 421, of that part of the report of myself and Colonel Abbot, on the Mississippi river, which treats of the protection of the alluvial region against overflow.

It is there stated as the result of the careful investigation the subject had received, that the only method of protection against inundation that could be resorted to with success was the levee system, but that the levees as then constructed were not high enough by several feet. The additional heights that should be given at different points in the course of the river are there pointed out.

It is further stated that if there were no levees whatever, the cost of constructing them of such height and dimensions as would give complete protection against inundation to the whole alluvial region would amount to about $26,000,000.

That to bring the levees then standing to this perfection, supposing them to be properly located, would cost $17,000,000.

The area thus protected amounts to 31,700 square miles, of which a mere narrow strip along the banks of the river and along a few bayous has been opened for cultivation.

Of this area, 12,300 square miles is below Red river, and belongs to the sugar region. Under a proper system of protection and drainage, one-third of it may be eventually opened and cultivated, or 2,500,000 acres.

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There are now under cultivation in this region about 1,000,000 acres.

Of the remaining 19,400 square miles, perhaps 3,000 square miles may be north of the cotton growing region, leaving some 16,000 square miles within that region of the most fertile alluvion, two-thirds of which may be finally rendered cultivable under a proper system of leveeing and draining. This would give 7,000,000 acres of cultivated land, capable of giving a bale of cotton to the acre, or about double the whole cotton crop of the United States in 1860.

The levees constructed under such a system would not, when greatest, exceed in magnitude those on the right branch of the Rhine below Arnheim, which protect the most fertile part of Holland. These levees are exposed at high water to as strong a current as that of the Mississippi in flood, and also to the estructive effects of ice. But the occurrence of crevasses such as take placed with every great flood of the Mississippi are there unknown. Should they happen, the ruin of a large part of the most productive portion of Holland would follow, as extensive tracts protected by the levees are lower than the surface of the sea, and their reclamation from overflow could only be effected by a drainage similar to that which has been applied to the lake of Harlem. The supervision, watching, and repair of these levees is costly, but effective and remunerative. The levees of the Mississippi as now existing are trifling compared to the interests they protect, and to the levees of the delta rivers of Europe, the Po, the Rhine, and the Vistula.

Some indication of the great wealth that would flow from the establishment of a proper levee system is given in what precedes; such a system will probably be introduced gradually, and, as experience proves to those who must pay for it, that it is more and more necessary.

It should comprise a great levee on each bank, intended for the general protection of the whole interior alluvion, and set, wherever practicable, beyond the limit of the bends of the river, so as to be safe against the effects of caving banks, the great cause of the destruction of levees. This is practicable in the upper course of the river, where the erosion of the bank is greatest.

Next in order after the great levee is that for the protection of the plantations along the river bank outside the great levee, but where the interests concerned are of so great magnitude that they may still be classed as general On some portions of the river these two classes must unite and become one. Connected with these two classes are guard levees.

Third in order are those where the interests protected are merely local, although the protection may include many thousand acres. The proper establishment and maintenance of the first order of levees requires some authority entirely beyond the influence of local interests. The second class is of a mixed character, in the establishment and maintenance of which the general and local interests should usually be united. The third class should be left entirely to local or personal means and authority.

Under the acts of Congress directing "the topographical and hydrographical survey of the delta of the Mississippi river, with such investigations as might lead to determine the most practicable plan for securing it from inundation and the best mode of deepening the channels at the mouths of the river," extended surveys and investigations were carried on under my direction during several years, and the report upon the results, prepared by myself and Colonel Abbot, was submitted by me to the Bureau of Topographical Engineers in August, 1861. A few copies of the report were printed by the War Department, and distributed to officers of the army and to the public libraries and learned societies of this country and of Europe.

In my recent visit to the Mississippi river I found precisely the same degree of ignorance and the same false views concerning the actual condition of the river dan all the methods of protection against inundation that prevailed in 1851, when

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the investigtions directed by Congress were set on foot. No copies of the report have been distributed in that region, nor are there any on hand for that purpose.

It is essential to the successful introduction of proper methods of protection that the information contained in the report mentioned should be made available to the people living in the alluvial region, and I beg leave to suggest the printing by Congress, or by the War Department, of a large edition of the report, and its liberal distribution among them.

Under your instructions of December 11, 1865, I left Washington on the 17th of December to examine and repair the levees, and having completed a preliminary examination about the 8th of January, 1866, made requisition upon General Canby for the means of repairing the ten principal breaks. These means, however, it was not in the power of General Canby or the War Department to furnish, and my duties were limited to such surveys and examinations as the subject appeared to me to require.

I assigned Major and Brevet Colonel H. L. Abbot, United States engineer, to the charge of that part of the river between the head of the alluvion and Vicksburg, excluding the State of Louisiana, and Captain and Brevet Major J. B. Wheeler, United States engineers, to that portion of the river bank in the State of Louisiana.

Such surveys as were necessary in Louisiana, together with the requisite plats, had, for the most part, been made by the State engineers, but extended surveys and measurements were necessary on the Yazoo bottom, and were made under the direction of Colonel Abbot. The results are presented by him in a valuable report, accompanied by six maps and eleven sheets of profiles.

I take leave to acknowledge the valuable services rendered by Colonel Abbot, and the efficient assistance afforded me by Major Wheeler. Lieutenant Mackenzie, United States engineers, was assigned to duty with Colonel Abbot, who mentions his zealous labors in terms of commendation.

An explanatory diagram is annexed.

Very respectfully, your obedient servant,

A. A. HUMPHREYS,
Major General Volunteers.

Hon. EDWIN M. STANTON,
Secretary of War.

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LETTER

OF THE

SECRETARY OF THE NAVY,

COMMUNICATING

In compliance with a resolution of the Senate of March 12, 1867, a copy of the records of the retiring and advisory boards, and all the proceedings in the matter of the dismissal of Captain Edward McDonald Reynolds from the marine corps.

MARCH 23, 1867.—Read, ordered to lie on the table and be printed.

NAVY DEPARTMENT,
March 23, 1867.

SIR: In compliance with the resolution of the Senate adopted March 12 1867, I have the honor to transmit herewith a copy of the records of the retiring and advisory boards, and all the proceedings in the matter of the dismissal of Captain Edward McDonald Reynolds from the marine corps.

Very respectfully, your obedient servant,

GIDEON WELLES,
Secretary of the Navy.

Hon. BENJAMIN F. WADE,
President pro tem. of the United States Senate.

MEMORIAL.

To his Excellency Andrew Johnson, President of the United States:

The memorial of Edward McDonald Reynolds respectfully shows, that, by General Order No. 43 of the Navy Department, bearing date December 7, 1864, "Captain Edward McDonald Reynolds, of the marine corps, was dismissed the service," and that such dismissal was made "by authority of the President."

That your memorialist has been wrongfully and unjustly dismissed; that he had been previously cited to appear before a marine board, constituted under the 16th and 17th sections of the act approved August 3, 1861, entitled "An act providing for the better organization of the military establishment," and that said board, "after a patient and thorough examination of his physical condition and of his entire professional life, and after mature deliberation upon the evidence before it, and availing itself of all the lights within its reach," found "that Captain E. McD. Reynolds is mentally, morally, professionally, and physically fit for the performance of all the duties of his office."

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That the return of the findings of the board to the Navy Department was almost immediately followed by the promulgation of General Order No. 43, which appears to have been founded upon the report of a revising board, which is set forth at length in said order.

That said revisory board had no lawful authority to act in the matter, and from the fact that the witnesses were not brought before it, and that your memorialist was not present, either in person or by counsel, entirely misunderstood and misstated the evidence, and unintentionally, as your memorialist believes, did a cruel wrong by inducing the President to remove him from the service after the only tribunal known to the law in such cases had solemnly adjudicated under oath that he was entirely competent.

Your memorialist further shows that he presented a memorial, of similar tenor to the present, to the late President Lincoln, who promised to examine the same, but had made no decision thereon, to your memorialist's knowledge, at the time of his lamented death.

Your memorialist, therefore, hereby respectfully offers to waive the former judgment of the board in his favor, and asks that a competent court or board may be appointed to try him upon any charges which may be brought against him, and that, in the event of the non-production of such charges, or of his acquittal, thereupon the order dismissing him may be vacated, or that he may have such other or further relief as is consistent with equity and right.

And your memorialist, &c.

E. McDONALD REYNOLDS.

MAY 23, 1865.

UNITED STATES OF AMERICA, STATE OF NEW YORK,
City and County of New York, ss:

Edward McDonald Reynolds, of the city of Brooklyn, county of Kings and State of New York, being duly sworn, doth depose and say that the aforegoing memorial, by him subscribed, is true of his own knowledge, except as to those matters which are therein stated on his information and belief, and that as to those matters he believes it to be true.

E. McDONALD REYNOLDS.

Sworn to before me this 23d day of May, 1865.

[SEAL.] WM. HENRY ANTHON,
Notary Public, City and County of New York.

Executive.

Respectfully referred to the Solicitor and Judge Advocate General of the Navy Department, for report, by order of the President of the United States.

R. D. MUSSEY,
Military Secretary.

MAY 25, 1865.

NAVY DEPARTMENT,
June 1, 1865.

Captain Edward McD. Reynolds, the memorialist, was dismissed the service on the 7th day of December, 1864, by the following general order:

[General Order No. 43.]

NAVY DEPARTMENT,
December 7, 1864.

A marine board, consisting of Lieutenant Colonel Ward Marston, president, and Surgeon Charles Eversfield, Lieutenant Colonel James H. Jones, Surgeon

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Delavan Bloodgood, and Major George R. Graham, members, was convened at Brooklyn, New York, on the 13th of October, 1864, for the purpose of examining such cases as might be referred to it under the 16th and 17th sections of the act approved August 3, 1861, entitled "An act providing for the better organization of the military establishment."

One of the cases referred to the board for examination and report was that of Captain Edward McD. Reynolds, of the marine corps.

The record of the proceedings of the board in this case having been received at the department, it appeared that Captain Reynolds was found to be "physically competent to perform the duties of his office;" but the evidence exhibited on the record tending to show that he might be disqualified by other than physical defects for his position on the active list of the service, the case was remanded to the board for revision and further proceedings, with directions that additional witnesses should be summoned, and Captain Reynolds be notified of the reopening of his case.

After a further examination the board returned the record to the department with the following finding:

"The board, after mature deliberation on the evidence before it, and availing itself of all the lights within its reach, does find that Captain E. McD. Reynolds is mentaliy, morally, professionally, and physically fit for the performance of all the duties of his office."

The evidence taken in the case of Captain Reynolds presents the following facts:

In September last, after returning in bad health from service in the South Atlantic blockading squadron, he was admitted into the naval hospital at New York for dyspepsia, caused by "excessive use of tobacco," and ureteritis, caused by "sexual intercourse."

In the year 1860 he was divorced from his wife on the ground of adultery on his part.

The commanding officer of a vessel to which he was attached, in the Pacific station, in the years 1857 and 1858, testified that his moral character was so bad that he declined to introduce him to ladies visiting the ship. The executive officer of the vessel testified to the same effect.

According to the testimony of an officer of high rank in the corps, with whom he had served in Mexico, he was in the habit of going to balls which were not reputable, and dancing all night with improper women in his uniform.

The evidence as to his immoral character and open practice of vice is cumulative.

The defence made in his behalf admits past immorality to some extent, but says "the evidence shows that for the past five years, by exercise of a powerful will, he has turned aside from those courses which might impair his health and strength." This statement, however, is contradicted by the testimony as to the causes of his resorting to the hospital in September last. There is no evidence of reform on his part.

The department, not desiring to be governed altogether by its own opinion of the finding of the board as to the moral fitness of Captain Reynolds, submitted the record to the examination of three officers of high rank, who have reported as follows:

"WASHINGTON, *November* 29, 1864.

"SIR: We have carefully examined the record of the retiring board in the case of Captain E. McD. Reynolds, of the marine corps, and, in our opinion, the finding of that board is supported by the evidence in the particulars of mental,

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physical, and professional qualifications, but that it is not supported by the evidence in the particular of moral fitness.

"We beg leave to return the record in view herewith.

"Very respectfully, your obedient servants,

"L. M. GOLDSBOROUGH,
"*Rear-Admiral.*
"J. L. GARDNER, *Commodore.*
"J. ZEILIN,
"*Col. Commandant U. S. Marine Corps.*

"Hon. GIDEON WELLES,
"*Secretary of the Navy, Washington, D. C.*"

The record in this case could not a second time have been remanded to the board without seeming to indicate to the members of it a finding which their own moral perceptions did not point out to them after reiterated and mature deliberation, nor can the finding as it is be approved without raising doubts of injurious tendency, whether any degree or species of immorality would hereafter be considered as unfitting an officer of the marine corps for continuance and advancement in it, nor, after such a result, can Captain Reynolds be permitted to remain in the corps, a sanctioned example or model for the numerous young officers now attached to it. Captain Edward McD. Reynolds is therefore dismissed from the service, and will, from this date, no longer be regarded as an officer of the marine corps.

Lieutenant Colonel Ward Marston, the president of the board, and Surgeon Charles Eversfield, Lieutenant Colonel James H. Jones, Surgeon Delavan Bloodgood, and Major George R. Graham, members of the board, will be respectively placed on furlough for the term of three months, each, from the 15th instant.

GIDEON WELLES,
Secretary of the Navy.

The evidence in the case, fully taken before the examining board, was also referred with the report of that board to Admiral Goldsborough, Commodore Gardner, and Colonel Zeilin, and, with their report, was the basis of the foregoing order. These officers constituted an advisory board merely, who expressed their opinion from the record then existing, and as the facts were already fully stated, it was not deemed necessary that any additional evidence should be laid before them.

Upon a consideration of the whole evidence this was deemed to be a case where the public service required the dismissal of Captain Reynolds. The action was properly taken under section 17 of the act of July 17, 1862, (12 Stats. at Large, 596,) which authorizes and requests the President to dismiss any officer in the army, navy, or marine corps, "for any cause which, in his judgment, either renders such officer unsuitable for, or whose dismission would promote the public service."

Respectfully submitted:

WM. E. CHANDLER,
Solicitor and Naval Judge Advocate General.

EXECUTIVE OFFICE,
June 5, 1865.

Respectfully returned to the honorable Secretary of the Navy. The President declines to reinstate Captain Reynolds.

By order of his Excellency:

R. D. MUSSEY,
Military Secretary.

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PROCEEDINGS OF A MARINE RETIRING BOARD, CONVENED AT THE MARINE BARRACKS, BROOKLYN, NEW YORK, ON THE 13TH DAY OF OCTOBER, 1864, IN COMPLIANCE WITH ORDERS OF THE HONORABLE SECRETARY OF THE NAVY.

MARINE BARRACKS, BROOKLYN, N. Y.,
October 13, 1864.

The board met pursuant to the following orders:

NAVY DEPARTMENT,
Washington, October 7, 1864.

SIR: A marine board, of which you are appointed president, is ordered to convene at the marine barracks, Brooklyn, New York, on Thursday next, the 13th instant, or as soon thereafter as practicable, for the purpose of investigating and reporting on such cases as may be referred to it under the 17th section of the act providing for the better organization of the military establishments, approved August 3, 1861.

Enclosed herewith is a letter from Captain E. McD. Reynolds, whose case will be investigated and reported on by the board.

I am, respectfully, your obedient servant,

GIDEON WELLES,
Secretary of the Navy.

Lieutenant Colonel WARD MARSTON,
United States Marine Corps, Boston.

NAVY DEPARTMENT,
Washington, October 7, 1864.

SIR: A marine board, of which you are appointed a member, has been ordered to convene on Thursday next, the 13th instant, at the marine barracks, Brooklyn, New York, for the purpose of investigating and reporting on such cases as may be referred to it under the 16th and 17th sections of the act providing for the better organization of the military establishments, approved August 3, 1861.

You will report, at the time and place appointed, to the president of the board.

I am, respectfully, your obedient servant,

GIDEON WELLES,
Secretary of the Navy.

Surgeon CHARLES EVERSFIELD,
United States Navy, Navy Yard, New York.

NAVY DEPARTMENT,
Washington, October 7, 1864.

SIR: A marine board, of which you are appointed a member, has been ordered to convene on Thursday next, the 13th instant, at the marine barracks, Brooklyn, New York, for the purpose of investigating and reporting on such cases as may be referred to it under the 16th and 17th sections of the act providing for the better organization of the military establishments, approved August 3, 1861.

You will report, at the time and place appointed, to the president of the board.

I am, respectfully, your obedient servant,

GIDEON WELLES,
Secretary of the Navy.

Major GEO. R. GRAHAM,
United States Marine Corps, Washington, D. C.

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NAVY DEPARTMENT,
Washington, October 7, 1864.

SIR: A marine board, of which you are appointed a member, has been ordered to convene on Thursday next, the 13th instant, at the marine barracks, Brooklyn, New York, for the purpose of investigating and reporting on such cases as may be referred to it under the 16th and 17th sections of the act providing for the better organization of the military establishments, approved August 3, 1861.

You will report, at the time and place appointed, to the president of the board.

I am, respectfully, your obedient servant,

GIDEON WELLES,
Secretary of the Navy.

Surgeon DELAVAN BLOODGOOD,
U. S. Navy, U. S. Steamer Vermont, New York.

NAVY DEPARTMENT,
Washington, October 7, 1864.

SIR: A marine board, of which you are appointed judge advocate, has been ordered to convene on Thursday next, the 13th instant, at the marine barracks, Brooklyn, New York, for the purpose of investigating and reporting on such cases as may be referred to it under the 16th and 17th sections of the act providing for the better organization of the military establishments, approved August 3, 1861.

You will report, at the time and place appointed, to the president of the board.

I am, respectfully, your obedient servant,

GIDEON WELLES,
Secretary of the Navy.

Lieutenant JNO. C. HARRIS,
United States Marine Corps, Philadelphia, Penn.

Present: Lieutenant Colonel Ward Marston, United States marines, president of board; Surgeon Charles Eversfield, United States navy, Lieutenant Colonel James H. Jones, United States marines, Surgeon Delavan Bloodgood, United States navy, Major George R. Graham, United States marines, members; and Lieutenant John C. Harris, United States marines, judge advocate.

Captain E. McD. Reynolds, United States marines, the officer whose case is about to be investigated and reported upon by the board, was also present.

The orders of the president, members, and judge advocate were then read aloud by the judge advocate, and entered upon the record.

The judge advocate here asked Captain Reynolds if he had cause of objection to any members of the board, to which he replied he had not.

The president here inquired of Captain Reynolds if he desired to employ counsel, to which he replied he did not.

Captain Reynolds's orders to report to the board were then read aloud by the judge advocate, and entered on the record, and were as follows:

NAVY DEPARTMENT,
Washington, October 7, 1864.

SIR: A marine board which is ordered to convene at the marine barracks, Brooklyn, New York, on Thursday next, the 13th instant, has been directed to

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investigate and report on your case under the 16th and 17th sections of the "act providing for the better organization of the military establishments," approved August 3, 1861.

I am, respectfully, your obedient servant,

GIDEON WELLES,
Secretary of the Navy.

Captain E. McD. Reynolds,
United States Marine Corps, New York.

There being no copy of the law, under which the board acts in its possession, the board was adjourned until 10.30 a. m. to-morrow, to enable the judge advocate to procure one.

Marine Barracks, Brooklyn, N. Y.,
October 14, 1864.

The board at 10 30 a. m. met pursuant to adjournment of yesterday.

Present: Lieutenant Colonel Ward Marston, United States marines, president; Surgeon Charles Eversfield, United States navy, Lieutenant Colonel J. H. Jones, United States marines, Surgeon Delavan Bloodgood, United States navy, Major George R. Graham, members; and Lieutenant John C. Harris, United States marines, judge advocate.

Captain Reynolds, the officer whose case is under investigation, was also present. The proceedings of the preceding day were read aloud and found to be correctly recorded.

Captain Jones here presented his orders, which were read aloud by the judge advocate, entered on the record, and were as follows:

Navy Department,
Washington, October 7, 1864.

Sir: A marine board of which you are appointed a member has been ordered to convene on Thursday next, the 13th instant, at the marine barracks, Brooklyn, New York, for the purpose of investigating and reporting on such cases as may be referred to it under the 16th and 17th sections of the act providing for the better organization of the military establishments, approved August 3, 1861.

You will report, at the time and place appointed, to the president of the board.

I am, respectfully, your obedient servant,

GIDEON WELLES,
Secretary of the Navy.

Lieut. Col. Jas. H. Jones,
United States Marine Corps, Portsmouth, N. H.

The board was then sworn by the judge advocate, and the judge advocate by the president of the board, in the presence of Captain Reynolds.

The following letter from Captain Reynolds to the Secretary of the Navy, forwarded by the department for the information of the board, was then read aloud by the judge advocate:

United States Naval Hospital,
Brooklyn, N. Y., September 29, 1864.

Sir: On my arrival at Boston as passenger in the United States steamer Mahaska, I reported, as ordered by Captain De Camp of the Wabash, to Admiral Stringham; also to the department; likewise to the colonel commandant of the corps. After so reporting, I obtained leave of absence for one week to visit

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my friends and to consult Surgeon Smith of naval hospital at this station as to the nature of the complaint from which I was suffering, and had been some months. The opinion of Surgeon Smith determined me to place myself under his treatment, which, with the sanction of Admiral Paulding, I have done. At the expiration of the leave granted by Admiral Stringham, I addressed him a letter asking further indulgence, or until such time as I could hear from the department. He referred by return mail to the Hon. Secretary of the Navy, saying, I was not under his command nor on his station; consequently I again report myself as at the New York station, temporarily an invalid in naval hospital.

I have the honor to be, very respectfully, your obedient servant,

E. McD. REYNOLDS,
Captain Marines.

Hon. GIDEON WELLES,
Secretary of the Navy, Navy Department, Washington, D. C.

THOMAS L. SMITH, surgeon United States navy, was then called and sworn, and the preceding letter was read to him.

By JUDGE ADVOCATE:

Q. Please state what you know of this case.

A. About two weeks since Captain Reynolds came to the hospital and stated to me in a general way that he was ill, and asked the propriety of his coming to the hospital for treatment. I told him if he would get authority to come there, I would take him in charge. He came with authority from Admiral Paulding to be received at the hospital. I directed Surgeon Freeland to take charge of his case. Since then he has been under his care. I did not investigate his case myself. Captain Reynolds has been there since, with the exception of two days' leave.

By the BOARD:

Q. Can you state whether the physical condition and health of Captain Reynolds at this time, is such as to render him unfit to perform his duties as an officer?

A. I am not prepared to give an opinion as to that.

The board having no further questions for this witness, he was turned over to Captain Reynolds, who did not question him.

The testimony was then read over to the witness and by him pronounced to be correctly recorded.

Surgeon BENJAMIN VREELAND, United States navy, was then called and sworn.

By the JUDGE ADVOCATE:

Q. What is your name, and rank in the United States navy?

A. Benjamin Vreeland, surgeon.

(Captain Reynolds's letter to the honorable Secretary of the Navy was then read to him.)

Q. Please state all you know in regard to this case.

A. Captain Reynolds is a patient at the naval hospital; was admitted on the 26th of September, 1864. He had symptoms of dyspepsia, which I attributed to the excessive use of tobacco; he had also "ureteritis."

Q. Can you state whether the physical condition and health of Captain Reynolds at this time is such as to render him unfit to perform his duties as an officer?

A. I think he is not physically unfit to perform his duties as an officer.

Q. Is he now in the hospital?

A. He is.

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Q. How comes it then, if he is fit for service, he is retained on the sick list by you?

A. A man may be indisposed and still fit for service; I mean he is not permanently disabled.

Q. You then think that, except a temporary indisposition, he is wholly fit to perform his duties as an officer of the marine corps?

A. I do.

By the BOARD:

Q. How long will Captain Reynolds probably be unfit for duty?

A. I should say for a fortnight

Q. Is the "ureteritis" which you say Captain Reynolds is laboring under caused by excessive use of tobacco?

A. No, sir; I think not.

Q. Did the disease you mention originate in the line of duty?

A. No, sir.

Q. What was probably the cause of the "ureteritis?"

A. I think the probability is that it was sexual intercourse, though I never asked him the direct question.

Q. Cannot "ureteritis" be produced by other causes besides sexual intercourse?

A. Yes, sir.

Q. Why then do you think in the case of Captain Reynolds that it was caused by sexual intercourse?

A. Because in the majority of cases of that affection that is the cause.

Q. What other causes will produce it?

A. Foreign bodies in the urethra; injuries or wounds of the urethra; affections of the kidneys and bladder; affections of the rectum, and medicines.

The board having no further questions to put to this witness, Captain Reynolds asked him as follows:

By CAPTAIN REYNOLDS:

Q. Would not a prolonged residence in a southern climate, debarred from exercise, produce my debility? Do you suppose that it aggravated, in fact, almost wholly produced, it.

A. This no doubt was one great cause of debility.

Q. Is there any organic derangement of my system?

A. None that I can detect.

Q Can "ureteritis" be produced by many disorders in the human system?

A. Yes, sir, it can be.

Q. Could not "ureteritis" exist as a chronic affection for a long time?

A. Certainly it could.

Q. In what form was the tobacco used to which you refer?

A. Smoking.

Q. Have I not an irritation of the bladder?

A. Yes.

By the BOARD:

Q. Do you think an officer having an irritation of the bladder can be in a fit state to perform all his duties?

A. If it is a permanent affection he cannot; but I do not consider this a permanent affection.

Q. Is the "ureteritis," for which you have treated Captain Reynolds, acute or chronic?

A. It is an acute ureteritis, supervening upon a chronic one.

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By JUDGE ADVOCATE:

Q. Has this disease been produced by any of the causes you have last mentioned, such as injuries, &c.?

A. I think not.

There being no further questions put, the testimony was read over to the witness and by him pronounced correctly recorded.

The court was then closed and after some deliberation reopened and adjourned until to-morrow at 10.30 a. m., to await the arrival of medical examining officers.

MARINE BARRACKS,
Brooklyn, N. Y., October 15, 1864.

The board met pursuant to the adjournment of yesterday, at 10.30 a. m.

Present: Lieutenant Colonel Ward Marston, United States marines, president; Surgeon Charles Eversfield, United States navy, Lieutenant Colonel James H. Jones, United States marines, Surgeon Delavan Bloodgood, United States navy, Major G. R. Graham, United States marines, members; and First Lieutenant John C. Harris, United States marines, judge advocate.

Captain E. McD. Reynolds, the officer whose case is under investigation, was also present.

The record of the preceding day was read aloud by the judge advocate and found to be correct.

The medical officers telegraphed for by the board not having arrived, the board, after waiting until 1 p. m., adjourned until Monday, October 17, at 10.30 a. m.

MARINE BARRACKS,
Brooklyn, N. Y., October 17, 1864.

The board met pursuant to the adjournment of Saturday, at 10.30 a. m.

Present: Lieutenant Colonel Ward Marston, United States marines, president; Surgeon Charles Eversfield, United States navy, Lieutenant Colonel J. H. Jones, United States navy, Surgeon Delavan Bloodgood, United States navy, Major G. R. Graham, United States marines, members; and First Lieutenant John C. Harris, United States marines, judge advocate.

Captain E. McD. Reynolds, United States marines, the officer whose case is under investigation, was also present.

The record of the proceedings of Saturday was read aloud by the judge advocate and found to be correct.

The board not having heard from the Navy Department, in reply to their telegraph for medical examining officers, and it coming to their knowledge that a precedent for directing the medical officers sitting on the board to make the examination required by the board, and to testify thereto, had occurred, it was so ordered; and Surgeons Eversfield and Bloodgood retired with Captain Reynolds to examine into his physical condition. The surgeons, with Captain Reynolds, having re-entered and signified their readiness to testify—

Surgeon DELAVAN BLOODGOOD, United States navy, (a member of the board,) was called and sworn.

By the JUDGE ADVOCATE:

Q. What is your name, and rank in the United States navy?

A. Delavan Bloodgood, surgeon.

Q. Have you made a physical examination of Captain Reynolds?

A. I have, by direction of the board.

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Q. Please state the results of that examination, as bearing on his fitness for the duties of the service.

A. I did not discover anything in his physical condition, nor any evidence of existing disease or disability, which would disqualify him for the performance of the duties of his office.

The board having no further questions to put, the witness was turned over to Captain Reynolds, who asked him no questions.

The testimony was here read over to the witness and by him pronounced to be correct.

Surgeon CHARLES EVERSFIELD, United States navy, was then called and sworn.

By JUDGE ADVOCATE:

Q. What is your name, and rank in the United States navy?

A. Charles Eversfield, surgeon.

Q. Have you made a physical examination of Captain Reynolds?

A. I have, by direction of the board.

Q. Please state the results of that examination, as bearing on his fitness for the duties of the service.

A. I found nothing whatever to incapacitate him for the performance of his duties, ashore or afloat. He seems laboring now under a slight dyspeptic affection. Beyond that I found nothing.

The board having no further questions to put, the witness was turned over to Captain Reynolds, who asked him no questions.

The testimony was here read over to the witness and by him pronounced to be correct.

The judge advocate here announced the testimony closed. Captain Reynolds not desiring to offer any testimony, to the inquiry by the judge advocate whether Captain Reynolds desired to make any statement, he replied he did not.

The judge advocate here laid before the board a fair record of the testimony and proceedings of the board, and offered to read any or all of it, as might be desired by the board.

The board was then cleared, and after some deliberation it was resolved to report upon Captain Reynolds's case as follows:

The board having carefully considered the testimony adduced in the case under consideration, with special reference to the provisions of sections 16 and 17 of the act providing for the better organization of the military establishments, approved August 3, 1861, are of opinion, and decide, that Captain E. McD. Reynolds is physically competent to perform the duties of his office.

WARD MARSTON,
Lieutenant Colonel and President.
C. EVERSFIELD,
Surgeon United States Navy.
JAMES H. JONES,
Lieutenant Colonel Marines.
DELAVAN BLOODGOOD,
Surgeon United States Navy.
GEORGE R. GRAHAM,
Major United States Marines.
JOHN C. HARRIS,
First Lieutenant U. S. M., and Judge Advocate.

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MARINE RETIRING BOARD, MARINE BARRACKS,
Brooklyn, New York, November 1, 1864.

The board, in compliance with the orders of the Secretary of the Navy, proceeded with the case of Captain Reynolds, the record of which was returned for their revision and further proceedings.

Present: Lieutenant Colonel Ward Marston, United States marines, president of the board; Surgeon Charles Eversfield, United States navy, Lieutenant Colonel J. H. Jones, United States marines, Surgeon Delavan Bloodgood, United States navy, Major George R. Graham, United States marines, members; and First Lieutenant John C. Harris, United States marines, judge advocate.

Captain Reynolds, the officer whose case is under investigation, was also present.

The president asked Captain Reynolds if he desired to employ counsel.

To this Captain Reynolds stated that he did, and desired to make the following request of the board:

I respectfully represent to the board that the counsel I have retained has been summoned to Washington in relation to another case. Under these unavoidable circumstances, I solicit a postponement of the investigation until Thursday morning. I make the request consequent on the wide field of research opened by the government into the moral, mental, and professional qualifications of a man, requiring the utmost caution on the part of the defence.

E. McD. REYNOLDS,
Captain Marines.

The board was then cleared, and it was decided to grant his request. It was then reopened and the decision announced.

The letter from the Secretary of the Navy directing the revision of the proceedings in the case of Captain Reynolds was then read to him.

The board then adjourned until Thursday morning, the 3d instant, at 10.30 a. m.

MARINE RETIRING BOARD, MARINE BARRACKS,
Brooklyn, New York, November 3, 1964.

The board met at 10.30 a. m., pursuant to the adjournment of Tuesday.

Present: Lieutenant Colonel Ward Marston, United States marines, president of the board; Surgeon Charles Eversfield, United States navy, Lieutenant Colonel J. H. Jones, United States marines, Surgeon Delavan Bloodgood, United States navy, Major G. R. Graham, United States marines, members; and First Lieutenant John C. Harris, judge advocate.

Captain E. McD. Reynolds, the officer whose case in under investigation, was also present with his counsel, W. Henry Anthon, esq.

The record of the proceedings of Tuesday, November 1, were then read aloud and found correctly recorded.

Captain Reynolds here made application to the board to allow his father, Colonel J. G. Reynolds, United States marines, to act as an associate counsel in his case, which request was granted by the board.

The judge advocate here desired all witnesses to withdraw.

Prior to the examination of witnesses, Captain Reynolds respectfully requests that the court will direct the judge advocate to make a statement of the general nature of the matters to be inquired into, and the period of time to be covered by such inquiries, in order that he may be the better able to summon his witnesses and prepare his case.

The board was then cleared, and it was decided to inform Captain Reynolds that the examination was to extend through his whole official life, moral, men-

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tal, physical, and professional, and it was impossible to grant his request; owing to the want of anything in the nature of charges from the department; but the board would take into consideration the position in which he is hereby placed and will grant him all reasonable indulgence.

The board was then reopened and it was so announced.

Commander R. H. WYMAN, United States navy, called and sworn.

By JUDGE ADVOCATE:

Q. What is your name, and rank in the navy?

A. R. H. Wyman, commander.

Q. Please state if you made a cruise in the Pacific, some years since, on board United States steamer St. Mary's, at the time Captain (then Lieutenant) Reynolds was attached to her. If so, please state the general character and reputation of Lieutenant Reynolds at that time, and give the board such other information as you deem proper and applicable in this case.

Before the question was answered, Captain Reynolds desired to make the following protest:

(Captain Reynolds repectfully objects to any question relating to a period more than two years previous to the date of the order for this investigation.

The board was then cleared, and it was decided to overrule the protest.

The board was then opened and it was so annnounced.)

A. I made a part of a cruise as executive officer of the United States steamer St. Mary's, between the latter part of 1857 and the latter part of 1859. At that time First Lieutenant (now Captain) Reynolds was attached to the St. Mary's and commanded the marine guard. The reputation which he had, as far as I know it, was extremely disreputable. I had occasion on two different occasions to mention to him the circumstances which I had heard in connection with reports, which, as far as my recollections serve me, he did not then see fit to deny. I first——

(The defence here objected as follows: Objection is made to the stating of these circumstances as being hearsay merely.

The board was then cleared, and it was decided to instruct the witness that he must state only such things as he knows of his own knowledge; reports made to him in his official capacity, and reports received from more than one person, which reports are then regarded in the light of general reputation.

The board was then opened and he was so instructed.)

The witness then continued: I was told by more than one officer attached to the St. Mary's that Lieutenant (now Captain) Reynolds was living openly and notoriously in Honolulu with a common sailor's prostitute, called "Steamboat Jack." I was told by more than one officer that in leaving Honolulu, the ladies came on board as passengers; that Commander (now Admiral) Davis informed them that it was not proper that——

(The defence here interposed the following objection: Objection is made to any evidence as to what Admiral Davis said.

The board overruled the objection and called the attention of the witness to the former ruling.)

The witness continued:—Lieutenant Reynolds should be introduced to them It may be proper for me to state, that a few days after my first joining the St. Mary's, sin the fall of 1857, I was detached and did not again join her until about the latter part of 1858. It was on my rejoining the vessel that I became fully aware of the opinion of the officers regarding Lieutenant Reynolds, but very few of whom associated with him. After leaving California, I heard from more than one person residing in Acapulco, and also from officers on the vessel, that Lieutenant Reynolds was notoriously in the company of some woman, of whose name I have no recollection; that he was called in Acapulco by the opprobrious Mexi-

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can or Spanish name of "*pendejo.*" Upon being told this, I spoke of it to Commander Davis, and gave it as my opinion——

(The defence here interposed as follows: Captain Reynolds objects to evidence of conversation of witness with Commander Davis, unless it is shown that he, Lieutenant Reynolds, was present.

The board was cleared and it was decided not to sustain the objection. The board was opened and it was so announced.)

—that an officer who made himself so notorious on shore should be kept on board ship. Commander Davis at first directed that Lieutenant Reynolds should be so retained on board, but before I had an opportunity of communicating the order to Lieutenant Reynolds he revoked it.

Q. Have you been in company with Lieutenant Reynolds on other vessels, stations, and squadrons, since that occurrence? and if so, state then his general reputation there, or matters of your personal knowledge bearing on this case?

A. I have never, to my recollection, been on any other ship, station, or squadron to which he was attached.

Q. Please state the names of persons from whom you have these reports, occurring both at Acapulco and Honolulu?

A. Commander Davis, Lieutenant Houston, Lieutenant Ward, Dr. J. W. Taylor, and Lieutenant McCorkle, also from the Pacific Mail Company's agent at Acapulco, Mr. Van Brunt; and from the British consul, whose name I cannot recollect.

Q. Please state the character of the woman you mention as being associated with Lieutenant Reynolds at Acapulco?

A. Her character was that of a kept woman, if not an open prostitute.

Q. Please give your opinion as to Lieutenant Reynolds's professional qualifications?

A. Lieutenant Reynolds, in my opinion, was energetic in the performance of his duties, and I believe performed them to the best of his ability; but, in my opinion, he lacked judgment in the management of men, treating them in a manner which rendered them in many cases dissatisfied and almost mutinous; in my opinion, causing many to desert.

Cross-examination by defence:

By Captain REYNOLDS:

Q. Were you ever in Honolulu while Lieutenant Reynolds was there?

A. Never.

Q. Do you know, of your own knowledge, that Captain Reynolds lived at Honolulu with a prostitute?

A. I do not.

Q. Do you know, of your own knowledge, that such a person as "Steamboat Jack" ever existed? or, if she ever existed, she was not a decent woman?

A. I do not.

Q. Are not officers and messmates on board ship in constant habit of joking about each other's love affairs?

A. Frequently they are.

Q. Do you know, of your own knowledge, that Captain Reynolds was notoriously in company of the woman of whom you have spoken at Acapulco?

A. I do not.

Q. Do you know, of your own knowledge, anything whatever about the character of the lady at Acapulco?

A. I do not.

Q. Were any of the communications you have mentioned in regard to Captain Reynolds's conduct with prostitutes what are known as official communications?

A. No.

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Q. Did you ever know of men becoming mutinous or deserting in consequence of Captain Reynolds's mistreatment of them?

A. I have stated such is my opinion; I know of no individual instance.

Q. Can you state the present residence of any of the persons you have mentioned who spoke to you about Captain Reynolds's conduct with prostitutes?

A. Admiral Davis has been summoned before this court; Surgeon J. W. Taylor, rendezvous, Boston; Mr. Van Brunt, I think still at Acapulco; the others are either dead or joined the rebels. Of the English consul at Acapulco, I know nothing of his present residence.

By the BOARD:

Q, In what condition was the guard of the St. Mary's during the time you were attached to her?

A. As my recollection serves me, on the arrival of the St. Mary's at San Francisco, the guard was in a very fair condition. After leaving San Francisco I do not think the guard was to be ever depended upon, but in justice to Lieutenant Reynolds I should state that many of this guard were enlisted in California from a very bad class of men, who could never have been converted into good soldiers under any circumstances.

By the BOARD:

Q. Are you cognizant, of your own personal knowledge, of anything in the conduct of Captain Reynolds derogatory to the character of an officer and a gentleman? If so, please state it to the board.

A. In my opinion it was derogatory to the character of Lieutenant Reynolds as an officer and a gentleman to allow these reports against him to go unanswered and uninvestigated when stated to him plainly and openly by myself.

Q. What is the plain English of the Mexican term "*pendejo*"?

A. It is an approbrious epithet signifying a short or crop haired fellow.

Q. Although you can't say, from your own personal knowledge, as to the truth of the reports you have mentioned, what is your opinion, as men generally judge of truth or falsity?

(The question was objected to by a member of the board. The board was cleared, and it was decided the question should not be answered. The board was then reopened and it was so announced.)

By CAPTAIN REYNOLDS:

Q. How often did you speak to Captain Reynolds about the reports in question?

A. Once in California. On a subsequent occasion a conversation on this subject was brought about by himself.

The testimony was here read over to the witness and by him pronounced correct.

Major C. G. McCAWLEY, United States marines, called and sworn.

By JUDGE ADVOCATE:

Q. What is your name and rank in the marine corps?

A. Charles G. McCawley, major.

Q. Have you been on service with Lieutenant or Captain Reynolds? Please state where and when.

A. I have served with Lieutenant and Captain Reynolds in Mexico, Philadelphia, and New York, and lately at Morris and Folly islands.

Q. Please give your opinion as to his professional capacity while serving in company with you.

A. I think that his professional qualifications were good, as far as attention

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to his duty went; but I do not think that his manner of doing duty was always judicious.

Q. What was Lieutenant and Captain Reynolds's general reputation, moral, mental, and professional, while you served together?

A. His mental reputation was good. His general professional reputation among officers and men was that of being very severe—too much of a martinet; his general moral reputation was not good.

Q. Please state, in detail, if you know of your own knowledge, anything derogatory to his moral character?

A. I know nothing except by hearsay, except when we were associated together in Mexico, it was a subject of comment among the young officers of the battalion to which we were both attached that Lieutenant Reynolds was too fond of going to balls which were not reputable ones, and dancing all night with improper women in uniform.

Q. Please state, under the restrictions imposed by the ruling of the board, (here read you,) all you know of his moral character.

The defence here desired to submit the following: The court has laid down the rule that witnesses may testify as to statements of facts bearing upon moral character made to them by more than one witness. Captain Reynolds objects to this ruling, and contends that while general reputation is undoubtedly a matter which depends upon the statement of others, yet that particular facts, involving moral turpitude, can only be proved by the testimony of witnesses who depose to matters within their own knowledge. Hearsay testimony in relation to matters of fact is never admissible. The rule is laid down by De Hart, page 377. This is a general rule the propriety of which is manifest from the following considerations: that the statement is not made by the witness from his own knowledge and therefore is not sanctioned by an oath, and that the party against whom the evidence is offered can have no opportunity of examining into the means of knowledge of the party who made the statement. As every fact is required to be proved on oath in the presence of the accused, it must follow that hearsay evidence cannot be allowed. The correctness of this rule was never more manifest than in the present case, where a mass of statements have been introduced as made by others without the sanction of an oath, and without opportunity to the accused to cross-examine the persons making such statements. The same rules of evidence govern this board as obtain in courts-martial. This is expressly declared in the act of Congress of 1861 authorizing such boards, and it is suggested to this court how perilous a thing it would be in an important case, involving life and liberty, to allow hearsay evidence.

It is submitted that the general declarations of others are admissible as to whether character is good or bad, but that facts affecting character can only be proved by positive testimony. If the opposite rule should be followed, it would evidently be allowable for Captain Reynolds, in reply, to bring witnesses to prove the good things that had ever been said of him by other parties, and to establish innumerable virtuous acts by the testimony of persons who would testify that they had heard others say he had performed them.

It is respectfully submitted that the witnesses should only be allowed to testify to general character from the statement of others, and to particular facts occurring in character, within their own positive knowledge.

The board was cleared, and after mature deliberation it was decided to sustain the objection and rule out hearsay evidence. On the board being opened it was so announced.

The board here adjourned until to-morrow at 10.30 a. m.

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MARINE RETIRING BOARD, MARINE BARRACKS,
Brooklyn, New York, November 4, 1864.

The board met at 10.30 a. m., pursuant to the adjournment of yesterday
Present: Lieutenant Colonel Ward Marston, United States marines, president of board; Surgeon Charles Eversfield, United States navy, Lieutenant Colonel J. H Jones, United States marines, Surgeon Delavan Bloodgood, United States navy, Major G. R. Graham, United States marines, members; and First Lieutenant John C. Harris, United States marines, judge advocate.

Captain E. McD. Reynolds, the officer whose case is under investigation, was also present.

The examination of Major C. G. McCawley was then continued.

The testimony of the witness was here read over to him, and by him pronounced correctly recorded.

By JUDGE ADVOCATE:

Q. Please state such facts as you know, of your personal knowledge, bearing on the professional reputation of Lieutenant and Captain Reynolds.

A. In the summer of 1863 a battalion of marines, under Major Zeilin, was landed on Morris island, South Carolina. Some of the marines of the South Atlantic squadron had been previously landed, and were commanded by Captain Reynolds, who was the senior marine officer of the squadron. While in command of this detachment he issued an order to the following effect: "In the event of this command going into action, if any officer or man should show the slightest sign of flinching it shall be the duty of any person observing it to shoot him instantly." Subsequently to this Captain Reynolds succeeded to the command of the whole battalion, and one day I found this order posted up at the guard tent. I took a copy of it at the time, and protested strongly to Captain Reynolds upon the impropriety of this order. This I consider an evidence that his manner of doing duty was not judicious. Upon my remonstrance Captain Reynolds withdrew the order. At the time Captain Reynolds took command of the battalion he issued an order allowing every captain and subaltern in the command to have an orderly. This was unusual, and I don't think, under the circumstances, very judicious. Of my own knowledge, Captain Reynolds has been tried twice by court-martial, which, in my opinion, is evidence that he does not carry on duty in such a manner as to avoid difficulties with his commanding officers. I think, therefore, that this is an evidence that his professional conduct is not judicious.

Q. What was his general professional reputation among officers of the battalion you refer to?

A. Those whom I heard express any opinion about him seemed disposed to speak ill of his professional abilities. They did not like his manner of carrying on duty. They complained, some of them to me, that he was too harsh with them.

Q. What was Lieutenant or Captain Reynolds's professional and moral reputation at the New York and Philadelphia posts, while you served together?

A. His professional reputation was as I have stated before. His moral reputation was bad.

Q. State such facts as you know of your own knowledge, bearing on his moral reputation at the places referred to in the preceding question.

A. Of my knowledge I can state but one fact, which, in my opinion, indicates a bad moral character. He told me himself that he was unfaithful to his wife, and confessed to an intrigue with another woman. This occurred at the New York barracks, several years ago, about 1855. I remember expressing some disapprobation to him of his conduct as a married man, to which he replied that he had made a great mistake; that he had married too soon. This is the only thing which I can relate, of my own knowledge, bearing on his moral character.

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Cross-examined by defence:

By Captain REYNOLDS:

Q. Was not Lieutenant Reynolds a very young man at the time of the balls in Mexico, to which you have referred?

A. He was about twenty years of age.

Q. Was it not quite a common thing for young officers to attend the balls in question?

A. It was common for officers to go in the room, because these balls to which I refer were held in a public room in a hotel, which communicated with many others, such as bar-rooms and gambling rooms, but it was not common for officers to dance at these balls, and it was that which excited the comment in Lieutenant Reynolds's case.

Q. Have you a copy of the Morris island order?

A. I have not; I destroyed it.

Q. Did not the Morris island order say that if he himself showed signs of flinching he was to be shot down?

A. That expression did not occur, to my remembrance.

Q. Did not Captain Reynolds, in the conversation you have mentioned at Morris island, deny that he ever promulgated the order referred to to the men.

A. He did deny that he had issued it to the battalion, but I found it on the order-board which had been brought from his other camp, mixed up with other orders and signed with his name This was hung at the guard tent.

Q. Did not Captain Reynolds in this conversation tell you that the placing of this order on the board was a mistake of his orderly sergeant?

A. I have no recollection of that. His statement was that he did not intend to or had not issued it to the battalion.

Q. What was the condition of the marine battalion, or of the part of it under his command, as to efficiency, while under Captain Reynolds's command at Morris island?

A. I know nothing of his command of the company. He only had command of the battalion a very short time, and the efficiency of it during that time was not changed in any way from what it had been before. I think it was always efficient.

Q Did you serve with Captain Reynolds at the siege of Fort Wagner? If so, what was his conduct?

A. I saw Captain Reynolds the morning we entered Fort Wagner, after the evacuation of the enemy. I think his conduct as a soldier and officer was good on that occasion.

Q. Did you serve with Lieutenant Reynolds at the siege of Chapultepec? If so, what was his conduct?

A. I did. His conduct there, as far as I know, was very good.

Q. Have you seen Lieutenant or Captain Reynolds in action on any other occasions besides those you have mentioned? If so, what was his conduct?

A. I cannot remember any other occasion except it be at the garita of San Cosme, Mexico. This was part of the battle of Chapultepec.

Q. Were there not some circumstances connected with the difficulty of obtaining servants which afford some explanation of the order at Morris island as to orderlies?

A. These orderlies were in addition to other men acting as cooks. When Captain Reynolds took command he abolished and took away these orderlies.

Q. Have you a copy of that order?

A. I have not.

Captain Reynolds here asked that the court may adjourn five minutes, in order that he may submit to the witness the original order referred to.

The board then took a recess for half an hour. On reassembling the examination was continued as follows:

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Q. Is the order No. 1 contained in the book shown you, the Morris island order referred to by you in regard to orderlies?

A. It is.

At the request of the defence the order (which is as follows) was read by the judge advocate and offered by the defence as evidence:

[Order No. 1.]

HEADQUARTERS MARINE BATTALION,
Morris Island, S. C., September 2, 1863.

Captain Reynolds had directed me to say to the officers of the battalion that one orderly will be allowed to the captain of each company and one for the two lieutenants; these orderlies to be taken from the ranks, to be on duty all day, having no relief. The captain commanding and the staff officers will be allowed each one orderly. Orderlies are excused from all company duty, and will be taken from the line of the company.

JOHN C. HARRIS,
Second Lieutenant and Adjutant.

Q. Do you recollect of the issuing of Order No. 4 in this book?

A. I do. The order in question is a copy of the army regulations in relation to the government of a camp.

This order was offered by the defence in evidence, and is as follows:

[Order No. 4.]

HEADQUARTERS MARINE BATTALION,
Morris Island, September 3, 1864.

1st. The Revised Army Regulations will govern the marine battalion in all its details.

2d. At the three roll calls, "reveille," "retreat," and "tattoo," one commissioned officer only is required to be present.

3d. A camp sergeant of police will have charge of the police of the battalion camp throughout. All police is under his supervision, and he is responsible to the commanding officer of the battalion only.

4th. A regimental detail for police will be made daily from the different companies of four privates per company, with two corporals, according to roster, for the general camp police. The detail will report to the camp sergeant of police.

5th. Company police is under the direction of the captains, and will be performed by the companies.

6th. The guard will police its own quarters under the officer of the guard; quarters are to be ready for inspection and repored at ten o'clock a m. to captains, who will inspect thouroughly and report the result by the orderlies.

7th. The camp sergeant will report at reveille, ten a. m., one p. m., retreat and tattoo, the police of the camp to the commanding officer.

8th. All offensive matter affecting the health of the camp will be burned or buried two feet deep. The sanitary condition of the camp must be cared for by all.

9th. Immediately after evening parade companies will be marched to company parades, and their arms and accoutrements thoroughly inspected by their captain before dismissal, who will report their result by their orderlies to the commanding officer.

10th. Lights will be permitted to officers until twelve p. m., and to non-commissioned officers until half past nine p. m.; all others to be extinguished at tattoo and the camp quiet.

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11th. The camp must be orderly at all times. In everything affecting the good order of the camp, the offender, if an officer, will be reported; if an enlisted man, confined. The officer of the guard has the enforcing of this order.

12th. Reports must be made daily from the companies in writing, signed by captains, of the disposition of the force under their command, and sent in to the adjutant at eight a. m., to be by him consolidated and sent to the commanding officer at nine a. m.

13th. No officer or enlisted man will be absent from the camp without the sanction of his captain. Captains will inform their juniors in rank present when leaving camp. There must always be one officer with a company.

14th. The officer of the guard will remain with his guard at all times, excepting during meal hours, mentioning his absence to his sergeant. He will sleep in the guard tent. He will communicate on duty or otherwise by his orderly. Said orderly to be detailed as orderly of the guard from his company.

15th. Reveille, daybreak; breakfast, 7 a. m.; guard mounting, 8 a. m.; dinner, 12 m.; retreat, sundown; tattoo, 9 p. m.; taps, 9.15 p. m.

16th. The sentinels posted around camp are numbered as follows: 1, guard tent; 2, left flank of camp; 3, rear of left wing; 4, rear of centre; 5, rear of right wing; 6, right flank; 7, commanding officers; 8, right of color line; 9, centre of color line; 10, commissary stores.

17th. Sentinels front, flank, and rear, see that no soldier leaves camp with arms, unless with a non-commissioned officer. No enlisted man to leave camp at night except going to the sinks, and then note their return. They arrest at any time suspicious persons prowling about the camp, and at night every one who attempts to enter, except officers—even soldiers of other camps; all arrested persons to be brought to the officer on guard.

18th. Sentinels will be particular in salutes: "Carry arms" to all under major; "Present" to commanding officer and all above the rank of captain.

19th. Gross offenders will be sent to the provost marshal.

20th. Without arms or with side-arms only, salute by raising the hand to the visor right side, palm to the front, elbow height of the shoulder. If sitting, rise, face to the officer, stand at "attention" and salute. If standing, turn to him and salute.

21st. Reports of all departures from the army regulations will be made personally to the commanding officer, whether in dress or discipline.

22d. Obedience to orders and quickness in obeying them insures discipline.

By order:

E. McD. REYNOLDS,
Captain Commanding Battalion.

The testimony of this witness was here read over to the witness, and by him pronounced correctly recorded.

Colonel JACOB ZEILIN called and sworn.

By JUDGE ADVOCATE:

Q. What is your name, and rank in the marine corps?

A. Jacob Zeilin; colonel commanding United States marine corps.

Q. Please state if you have ever served in company with Captain Reynolds; and if so, where?

A. At Morris island, during August, 1863.

Q. Please state such facts as you are personally cognizant of, bearing on his moral or professional character.

A. I know nothing of his moral character. During that time he commanded

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a company of a battalion commanded by myself, and performed his duties to my entire satisfaction.

The testimony was here read over to the witness, and by him pronounced correctly recorded.

Rear-Admiral CHARLES DAVIS called and sworn.

By JUDGE ADVOCATE:

Q What is your name, and rank in the United States navy?

A. Charles Henry Davis; rear-admiral.

Q. Please state if Lieutenant or Captain Reynolds ever served under your command, and where.

A. Yes, in the St. Mary's, between the months of December, 1856, and February, 1859, in the Pacific ocean, as well as I recollect.

Q. Please state such facts as come under your observation bearing on the professional or moral character of the officer in question.

A. With regard to his professional character, the principal facts that came under my observation were: first, the fact that he mistook his position on board ship, considering himself the sole source of police and declining to report to the first lieutenant the confinement of prisoners. Second, the want of consideration of his men, shown in this—that he exercised them at improper hours, rendered so by the heat of the climate, and for a length of time incompatible with health in that climate. The third fact is what I regarded as improper treatment of the men; in this—that he frequently mustered and examined them as the master-at-arms examined the side boys, and the result of the whole was, that after many friendly remonstrances and objections to his course of proceedings, I was obliged, in order to preserve the health and comfort of the marines, to deprive him of a portion of his authority over them which he at first exercised. Another fact is that the result of his control over the men was to produce a manifest spirit of insubordination and discontent. Of his moral fitness I know nothing of my own personal observation or knowledge other than this, that he was officially reported to me by the surgeon, J. W. Taylor, at the Sandwich Islands, as having venereal disease, he being at that time a married man.

Q. Did you, on the occasion of some ladies visiting or taking passage in the ship, inform them that Lieutenant Reynolds was an unfit person to be introduced to them, and what was your reason for so doing?

A. I did; and the reason was the concurrent reports of his loose living with prostitutes.

Q. Did you refuse to introduce him to ladies, and on what occasion?

(Question objected to by the defence as follows:

Captain Reynolds objects to this question on the grounds that it opens an entirely irrelevant subject of inquiry and involves, if answered, merely the point whether, in Admiral Davis's opinion, it was desirable to introduce him to the ladies in question.

The board was cleared, and it was decided to put the question. The board was then opened and it was so announced.)

A. I have generally at the Sandwich Islands, when they were on board, and particularly to the wife of the ex American consul and her sister, who took passage in the St. Mary's from Honolulu to San Francisco.

Q. Did your refusal to introduce him arise from personal animosity other than that arising from his general reputation, or was it wholly from the latter?

(Objection by Captain Reynolds: that the question involves a mere matter of opinion on social, not professional, matters, and is therefore not admissible

The board was cleared, and it was decided to put the question, and on being opened it was so announced.)

A. Wholly from the latter.

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Q. Please state what was Lieutenant Reynolds's general moral and professional reputation while serving in the St. Mary's.

A. They were both very unfortunate, except so far as his knowledge and qualification as a soldier went; as well as I am able to form an opinion of these, they were good. His moral reputation was bad on two accounts—his habitual intercourse with improper women, and in the fact of his being put nearly "in Coventry" by his own mess on account of this vice and his bad temper. As to his professional reputation he impressed the officers of the ship favorably, except in respect to his want of judgment and discretion in exercising the duties of command.

Q. Did you ever issue an order, which you subsequently revoked, refusing Lieutenant Reynolds permission to go ashore at Acapulco? and if so, what was the cause of the order?

A. I don't recollect. I may have done so.

Cross-examined by defence:

By Captain REYNOLDS.

Q. Is not the marine guard the police of the ship?

A. Not the sole police, but a part of it.

Q. Is not the commandant of marines, by virtue of his office, charged particularly with the police of the ship? And is he not always called upon to act as such in case of difficulty?

A. He has nothing to do with the police of the ship in relation to the seamen, except when specially applied to, and that principally in cases of defence. The board will observe in this case, I am not defining what the duty of marines is, but what it is not.

Q. What is the object of the marine guard on board ships?

A. It may be briefly defined: to perform garrison duties.

Q. Is not one of the most important of garrison duties to maintain the police of the post.

A. Yes; to whomsoever it may belong. Garrison duties of soldiers do not necessarily embrace all the duties of a military post of which Gibraltar and other military towns are illustrations.

Q. Do sailors on board ship ever perform police duties in maintaining order?

A. Shipped men who are not marines do, and sailors sometimes. Petty officers are always charged with certain police duties within their stations.

Q. You have said that the object of marines on board ship is to perform garrison duties, please explain your answer?

A. The duties of sentinel on what may be termed the walls of the ship, of sentinel over magazines, dangerous places, valuable property, and over confined prisoners.

Q. Can the officer of marines drill his men without permission of the officer of the deck?

A. I understand it always to be a matter of courtesy and usage in the service for the officers of marines to inform the officer of the deck, except on days of general inspection or general quarters.

Q. Is not a thorough inspection of men as to cleanliness more necessary in a hot than in a cold climate?

A. Yes.

Q. Was there any more sickness among the marines than is usual in that climate?

A. No.

Q. Was there any mutiny among the marines of the St. Mary's?

A. No.

Q. Were not the marines of the St. Mary's drawn from a very low order of

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men in San Francisco, and did they not on this account require extra attention from their officers?

A. I am not aware that it was so. It was thought, on the contrary, that we had a selection at the time of filling up the crew and guard at San Francisco, owing to the great number of applicants above the existing vacancies.

Q. Refer to section 842 of Army Regulations of 1857, and state whether this is not the order made by Lieutenant Reynolds as to cleanliness, &c.?

A. Lieutenant Reynolds conformed to this section, but in a manner which I regarded as offensive to the men.

At the request of the defence the witness here read the section referred to, which is as follows: "All the troops will turn out at a. m. without arms or uniform, and in warm weather without shoes or stockings, when every individual will be clean, his hands, face, and feet washed, and his hair combed. The same personal inspection will be repeated thirty minutes before sunset. The cooks alone may be exempted from one of these inspections per day, if necessary."

The witness continued: I would like to add that troops on transports constitute an exceptional case, and that what I complain of in Lieutenant Reynolds was that which I never had seen in the service before, and its obvious bad effect upon the men.

Q. Did you prefer charges against Lieutenant Reynolds on account of any of the supposed delinquencies you have mentioned?

A. No; neither did I report him to the Secretary of the Navy.

Q. Who were the messmates of Lieutenant Reynolds on board the St. Mary's?

A. Lieutenant Maury, (1st lieutenant,) Lieutenant Wyman, (1st lieutenant, part of cruise,) Lieutenant Houston, master, and Lieutenant Ward, Master Mitchell, Surgeon J. W. Taylor, Purser Ingersoll, Assistant Surgeon Kennedy, and others, whom I may not recollect.

No further questions being desired, the testimony of the witness was here read over to him and by him pronounced correctly recorded.

Surgeon B. R. TINSLER, United States navy, called and sworn.

By JUDGE ADVOCATE:

Q. What is your name, and rank in the navy?

A. My name is Benjamin R. Tinsler; I am surgeon in United States navy.

Q. Are you or are you not personally cognizant of the acts of Lieutenant Reynolds which caused the application to be made for his wife's divorce from him?

A. I am not. I was out of the country during the whole time of the proceedings in the case.

Q. What is the general reputation, morally, of Captain or Lieutenant Reynolds?

A. Bad.

The defence desiring no further questions, the testimony was here read over to the witness and by him pronounced correctly recorded.

Commodore S. C. ROWAN, United States navy, called and sworn.

Q. Please state if you have ever served on the same ship, squadron, or station with Lieutenant or Captain Reynolds. If so, when and where?

A. I served with him on the Pawnee during part of 1861, on the Potomac river; also in the South Atlantic squadron in 1863 and part of 1864; he was on the Wabash.

Q. State such facts as you may personally know bearing on his moral and professional reputation?

A. Of my own knowledge I know nothing of his moral reputation; professionally, I consider him a very insubordinate officer; I consider him, in regard to efficiency, zealous, but perhaps more zeal than knowledge—that is, tact—in the performance of his duty.

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Q. What is his general reputation, morally and professionally?

A. For morality it is bad; I don't know that I ever heard his professional reputation discussed.

Q. Please state in what particular his general reputation for morality is bad.

A. I learned that he behaved very badly to his wife; I have heard that he kept a mistress while he was a married man.

Q. Of your own knowledge do you know anything while he was in the South Atlantic squadron derogatory to his character as an officer?

A. I do not.

Cross-examined by defence:

By Captain REYNOLDS:

Q. Do you know of any instance of insubordination on Captain Reynolds's part? If so, state it briefly.

A. I do; in the disobedience of an order of the executive officer of the Pawnee to report his guard at morning and evening muster.

Q. Was not Captain Reynolds tried by court martial and acquitted on this charge?

A. He was tried by a court-martial and detached from the Pawnee; I have no knowledge what the decision of the court was.

Q. What was the condition of the marine guard of the Pawnee as to efficiency while Captain Reynolds was in command?

A. Fair.

The testimony of the witness was read over to him and by him pronounced correctly recorded.

The court here adjourned until to-morrow at 10.30 a. m.

MARINE RETIRING BOARD, MARINE BARRACKS,
Brooklyn, New York, November 5, 1864.

The board met at 10.30 a. m. pursuant to the adjournment of yesterday.

Present: Lieutenant Colonel Ward Marston, United States marines, president of the board; Surgeon Charles Eversfield, United States navy, Lieutenant Colonel J. H. Jones, United States marines, Surgeon D. Bloodgood, United States navy, Major G. R. Graham, United States marines, members; and First Lieutenant John C. Harris, United States marines, judge advocate.

Captain Reynolds, the officer whose case is under investigation, was also present.

Surgeon J. W. TAYLOR, United States navy, called and sworn.

By JUDGE ADVOCATE:

Q. What is your name, and rank in the United States navy?

A. J. Winthrop Taylor, surgeon.

Q. Have you ever served with Lieutenant or Captain Reynolds? If so, when and where?

A. I have, on the sloop St. Mary's, in the Pacific, for about two and a quarter years, I think.

Q. State such facts as you know, of your own knowledge, affecting Lieutenant or Captain Reynolds's reputation, morally or professionally?

A. Personally, I know but once when he asked me in regard to some venereal case. He generally consulted with the assistant surgeon with regard to points of that character, I think. I think myself unable to judge of him professionally.

Q. State as near as you can when and where the facts mentioned occurred?

A. I can't say; I think at the Sandwich Islands or San Francisco. With

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regard to his general health as far as I can remember, it was as good as any on board ship.

Q. What was Lieutenant Reynolds's general reputation, morally and professionally?

A. I don't think he maintained a very high reputation morally, and with regard to his reputation professionally, I used to hear it said that he was very harsh with his men, but a very good drill officer.

Q. Did you know, of your own personal knowledge, that on account of his habits and temper he was avoided or sent to "Coventry" by the greater part of his mess?

A. I have heard those facts, but I lived a greater part of the time in the cabin with Admiral Davis.

Cross-examined by defence:

By Captain REYNOLDS:

Q. Was Captain Reynolds ever on the sick list so as to be relieved from duty?

A. I don't remember. He couldn't have been very long on the sick list, if he had been.

Q. Did Captain Reynolds's sickness, to which you have referred, produce any permanent physical disability?

A. Not that I remember.

Q. What is Captain Reynolds's general reputation for soldierly qualities among officers in the service?

A. A good drill officer, but rather cruel or harsh with his men.

Q. What was the condition of the marines of the St. Mary's, as to health, during the cruise, and how did it compare with the sanitary condition of the sailors?

A. About on a par with the sailors, I think.

Q. Is not strict attention to cleanliness more necessary among large bodies of men in a warm climate than in a cool climate?

A. Yes.

Q. Did not Captain Reynolds have official difficulties with Lieutenant McCorkle, Lieutenant Houston, and Lieutenant Ward, which caused non-intercourse?

A. He had with Lieutenant Houston, and I heard with several others, though I did not know it personally; whether in Lieutenant Houston's case the difficulties arose on matters of duty or not I can't say; the others, I can't say.

Q. What were Captain Reynolds's social relations with his mess in the St. Mary's before these difficulties occurred?

A. When he first came aboard he was in good relations with all—after, I can't say.

Q. Was not Captain Reynolds on intimate terms with all the staff officers in the wardroom during the cruise of the St. Mary's?

A. So far as I know, he was, except I think he had a difficulty with Doctor Stewart Kennedy, assistant surgeon of the ship. I remember afterwards seeing them in conversation together; so I judge the difficulty to have been small.

By the BOARD:

Q. Did Captain Reynolds consult you, and did you prescribe for him, for venereal disease?

A. He did consult me, but I don't remember prescribing for him.

The testimony was here read over to the witness and by him pronounced correctly recorded.

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Commodore THEODORUS BAILEY called and sworn.

By JUDGE ADVOCATE:

Q. What is your name, and rank in the United States navy?

A. Theodorus Bailey, commodore.

Q. Please state when and where Lieutenant or Captain Reynolds served under your command?

A. On the frigate Colorado; sailed from Boston in latter part of June, 1861, up to the 30th of April, 1862. I left the ship on the 18th of April, and then went home bearer of despatches from Admiral Farragut.

Q. Please state what was Lieutenant or Captain Reynolds's general reputation, morally and professionally?

A. I know nothing of his morals, and professionally he was a capital drill officer, and the only fault I had to find was his over-zeal in drilling his men too much, and I don't think I ever met a better drill officer.

Q. State if an expedition was fitted out from your ship to cut out the schooner Judith, at Pensacola, and who composed it?

A. There was, Lieutenant Commander Russell commanded; Captain Reynolds commanded the marines; Lieutenant Francis Blake commanded the second cutter; Lieutenant Sprouton, since dead, Lieutenant Steece, Midshipman Higginson.

By Captain REYNOLDS:

Q. What was Captain Reynolds's conduct on that occasion?

A. I know nothing of my own knowledge.

Q. How do you consider Captain Reynolds's qualifications as a commanding officer of marines while under your command?

A. I considered them good.

The testimony was here read over to the witness and by him pronounced correctly recorded.

The defence here desired to make the following motion:

Captain Reynolds respectfully represents to the board that Tuesday of next week is the general election day, when most of the persons attending hereon would naturally be anxious to exercise the elective franchise at their respective places of residence, and, therefore, that as but one business day, namely, Monday, intervenes, it would be convenient should this board adjourn this afternoon until Wednesday next. He further respectfully represents that his witnesses who came from a distance cannot possibly attend until Wednesday.

The court was cleared and it was decided not to adjourn as requested.

The board adjourned until 11 a. m. Monday.

MARINE RETIRING BOARD, MARINE BARRACKS,
Brooklyn, New York, November 7, 1864.

The board met at 10.30 a m., pursuant to the adjournment of yesterday.

Present: Lieutenant Colonel Ward Marston, United States marines, president; Surgeon Charles Eversfield, United States navy, Lieutenant Colonel J. H. Jones, United States marines, Surgeon Delavan Bloodgood, United States navy, Major G. R. Graham, United States marines, members; and First Lieutenant John C. Harris, United States marines, judge advocate.

Captain Reynolds, the officer whose case is under investigation, was also present.

Lieut. Col. WARD MARSTON, United States marines, called and sworn.

By JUDGE ADVOCATE:

Q. What is your name, and rank in the marine corps?

A. Ward Marston, lieutenant colonel on the retired list, but on duty.

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The defence here submitted that Colonel Marston's being president of the board and a witness would be ground for challenging him in his former capacity, and he desired to do so, and submitted that should the board decide to call Colonel Marston as a witness it would be proper he should then withdraw from further sitting on the board during the present case.

The board was then cleared, and it was decided to refer the case for the decision of the department, and the further examination of the witness was for the present suspended.

Surgeon F. M. GUNNELL, United States navy, called and sworn.

By JUDGE ADVOCATE:

Q. What is your name, and rank in the United States navy?

A. Francis M. Gunnell, surgeon.

Q. State when and where you served with Captain Reynolds, and what was his moral and professional general reputation?

A. I served with Captain Reynolds on the United States steamer Pawnee, in 1861. His professional reputation I believe was good. His moral reputation was not good.

Cross-examined by defence:

By Captain REYNOLDS:

Q. Were not the reports as to his moral reputation confined entirely to social matters in connection with females, which occurred a long time previous?

A. They were. I don't know as to the date.

Q. Was Captain Reynolds on good terms with his messmates on board the Pawnee?

A. He was.

Q. What was the general condition of the marine guard while under Captain Reynolds's command?

A. It was efficient.

Q. What is the general reputation of Captain Reynolds as a commander?

A. He was considered an attentive and efficient officer, I believe.

By the BOARD:

Q. During the time you served with Captain Reynolds were you called upon to prescribe for him for any venereal disease?

A. I was not, that I remember.

Q. What was his general health during the time above specified?

A. Generally good; I only remember to have prescribed for an attack of dyspepsia. I don't remember that he was ever excused from duty.

The testimony of the witness was here read over to him and found correctly recorded.

The board here adjourned until Wednesday at 2 p. m.

MARINE RETIRING BOARD, MARINE BARRACKS,
Brooklyn, New York, November 9, 1864.

The board met at 10.30 a. m., pursuant to adjournment of Monday.

Present: Lieutenant Colonel Ward Marston, United States marines, president of the board; Surgeon Charles Eversfield, United States navy, Lieutenant Colonel J. H. Jones, United States marines, Major G. R. Graham, United States marines, Surgeon D. J. Bloodgood, United States navy, members.

The judge advocate, First Lieutenant Jno. C. Harris, marine corps, being absent on duty in Washington, the board adjourned until 10.30 a. m. to-morrow.

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MARINE RETIRING BOARD, MARINE BARRACKS,
Brooklyn, New York, November 10, 1864.

The board met at 10.30 a. m., pursuant to adjournment of yesterday.

Present: Lieutenant Colonel Ward Marston, United States marines, president of the board; Surgeon Charles Eversfield, United States navy, Lieutenant Colonel J. H. Jones, United States marines, Surgeon Delavan Bloodgood, United States navy; Major G. R. Graham, United States marines, members; Captain E. McD. Reynolds, the defendant, and his counsel.

The judge advocate returned and announced to the court the result of his journey to Washington.

The proceedings of the two previous days were read aloud and found to be correctly recorded.

William Bonynge, esq, reported as stenographer of the board, and took the judge advocate's oath to keep true record, &c.

No witnesses being present the court took a recess of an hour, during which the judge advocate went in search of Lieutenant Commander John H. Russell, United States navy. On his return the board reassembled, and—

Lieutenant Commander RUSSELL was called and sworn.

By the JUDGE ADVOCATE:

Q. What is your position in the United States navy, and name?

A. John H. Russell, lieutenant commander.

Q. Did you command an expedition fitted out in the harbor of Pensacola, for the purpose of cutting out the privateer Judah?

A. I did. It was fitted out outside of the harbor of Pensacola.

Q. Please state whether Captain Reynolds served on that expedition, and also such facts as, in your judgment, bear on his moral and professional reputation?

A. Captain Reynolds volunteered for the expedition. His moral reputation, under the circumstances, I cannot state. At the first fire he was wounded and fell in the bottom of the boat with a dead man on him. After that I knew nothing in regard to him until the expedition left the schooner, when he called upon the doctor, and he treated him.

Q. Please state what was Captain Reynolds's conduct, as fell under your personal observation, during the entire affair?

A. I only heard him say he was wounded and call on the doctor.

Q. He served some time on board the same ship with you?

A. I served with him part of the time as second lieutenant, and the latter portion as executive officer.

Q. Please state his general reputation, morally and professionally, while you were serving together in the ship?

A. His professional reputation I have never seen surpassed for energy in the discharge of his duties and exercising and drilling his men. As a messmate, I had no objection to him, and never heard any expressed.

The counsel for the defence stated that he had no question to ask the witness.

Whereupon the testimony of the witness, as hereinbefore written, was read over to him, and acknowledged by him to have been correctly recorded.

The judge advocate offered in evidence a record of the recent court-martial on Captain Reynolds, which was assented to by counsel for the defence, and received in evidence.

Counsel for the defence requested permission to examine the record of the previous court-martial before summing up, which was granted.

The judge advocate also offered in evidence a certified copy of the proceedings in the divorce case, in the city of New York, of Catharine V. N. Reynolds against Edward McDonald Reynolds.

Captain Reynolds objects to the introduction of the record of the supreme

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court in the divorce case of Catharine V. N. Reynolds against Edward McDonald Reynolds, on the following grounds:

First. The matter sought to be inquired into has no bearing upon his capacity to perform military service.

Second. The matter sought to be inquired into is of a social character entirely, and in no manner concerns the good order and military discipline of the marine corps.

Third. The matter sought to be inquired into has no bearing upon his moral, physical, or professional fitness for the service.

Fourth. The evidence, if allowed, would establish the precedent of allowing all matters connected with the social as well as the professional life of a party to be examined, and would authorize a species of *espionage* into the private affairs of officers altogether unwarranted by law and opposed to the true interests of the service.

Fifth. If the matters sought to be inquired into are in any point of view cognizable by a military court, they are proper matters for the consideration of a court-martial, as conduct unbecoming an officer and a gentleman, and are not cognizable by this board.

Whereupon the board was cleared, and after due deliberation upon the objection made by Captain Reynolds, the board reassembled, and the judge advocate read aloud the decision of the board as follows:

The board deem it their duty to admit the record.

The judge advocate stated that he proposed to read the record, whereupon a member of the board submitted the question as to whether the record should be read.

Thereupon the board was cleared for deliberation, and upon the reassembling of the board the judge advocate read aloud the decision of the board as follows:

The board decide not to read the record at present, the defence having assented. Whereupon the judge advocate announced that the case on behalf of the prosecution was closed.

GEORGE H. COOPER, a witness on behalf of the defence, being duly sworn, testified as follows:

Examined by counsel for the defence:

Q. What is your name, and rank in the navy of the United States?

A. George H. Cooper, commander in the United States navy.

Q. Are you acquainted with Captain Reynolds, and if so, on what occasions have you served with him?

A. I am acquainted with Captain Reynolds. I have never been on duty with him. I have served in the same squadron, the South Atlantic blockading squadron; have seen a great deal of Captain Reynolds on duty, both afloat and on shore.

Q. What opinion have you formed in respect to his professional capacity?

A. As regards his professional capacity, I think he stands among the first officers of the marine corps. That is my opinion from what I have seen of Captain Reynolds on duty; that is my opinion, based upon the general good condition of his guard, with regard to discipline, dress, drill, and general good attention to their duties.

Q. Have you observed on what footing he stood, socially, with his brother officers? If so, please state it fully.

A. To the best of my knowledge, he always appeared to be on good terms with his brother officers.

Q. State as nearly as possible the time, by dates, during which you served with him, as far as your observation extended?

A. I cannot well do that; at different times, during the last year or eighteen months, I have seen a great deal of Captain Reynolds on duty, both in camp

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and afloat. I have been a great deal on board of the frigate Wabash within the last year; he commanded the guard of that ship.

Q. What was his general treatment of the men under his command?

A. He was strict—a strict disciplinarian. I cannot go very well beyond that. He was a good disciplinarian, and nothing out of the way at all. I never witnessed anything harsh or cruel in his treatment of his men.

Cross-examined by the JUDGE ADVOCATE:

Q. You state that he stood well socially among his mess; what was his moral reputation?

A. I do not know, sir.

Q. Was his general reputation good or bad for morals?

A. As far as my knowledge is concerned it was good. My associations with Captain Reynolds have always been of the most pleasant kind.

The judge advocate announced that he had no further questions to ask the witness.

Whereupon the testimony of the witness, as hereinbefore written, was read over to him and acknowledged by him to have been correctly recorded.

Captain HEBB, a witness on behalf of the defence, being duly sworn, testified as follows:

Examined by counsel for the defence:

Q. What is your name, and rank in the marine corps of the United States?

A. E. D. Hebb, captain of the United States marine corps.

Q. Are you acquainted with Captain Reynolds? and if so, how long have you known him?

A. I have been acquainted with him for the last four or five years.

Q. Have you served with him at any time? and if so, when and where?

A. I have served three times with him, and once under him. The first time at New York, the next at Boston, and the third time at Morris island; I was under his command there for a short time.

Q. While at the posts of New York and Boston, in what manner did he administer the affairs of his command?

A. He was not in command then.

Q. He was not in command of a company?

A. I have seen him drill there; I have always thought he was a very good drill officer, and I have heard other persons say the same thing.

Q. What time do you refer to when he was in command?

A. All the time.

Q. At Morris island?

A. All the time he was in command; when I was with him and when he was in command.

Q. What time was Captain Reynolds in command of a marine battalion?

A. In September, 1863, I think.

Q. At Morris island?

A. Yes, sir.

Q. Please state, generally, what you observed of his administration of the affairs while in command, referring particularly to the question as to whether he was attentive to the comfort, discipline, and instruction of the troops under his command? Give a full answer.

A. I have seen him there sometimes several times a day drilling, and some officers thought he drilled the men too hard; perhaps they required drilling. When he took command I don't think they were drilled as much.

Q. What was the condition of that command as to efficiency while under his command?

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A. When we landed at Morris island we went ashore just on a hill, for a day or two, and the camps were not laid out regular. Before we got the tents up it was eight or nine o'clock at night, and they remained in that state for some time. Then, when the captain took command of the battalion, there was a company on our right, and as soon as they moved off he got permission to use a camp higher up and got a better position, and had streets laid out.

Q. He was not in command when you first landed?

A. No, sir.

Q. These improvements were made after he took command?

A. There was a company there.

Q. Give an answer as to the efficiency of the battalion while under the command of Captain Reynolds?

A. It was as efficient then as it was any time until his father took command.

Q. What is your opinion, based upon your observation, of his general merits as a commanding officer?

A. I thought him a very good officer; I have heard some persons says so. I think he was a very good officer.

Q. Had you any opportunity of observing his conduct at Fort Wagner?

A. No more than he went up there.

Q. I want a general answer as to the disposition of the men; the arrangement of matters for the affair; how all that was done, in a military point of view.

A. I thought he was some time starting from there—from Morris island to go to Wagner—longer than it ought to be.

Q. Was everything, in a military point of view, correct?

A. Yes, sir, I think it was.

Q. How did he stand, socially, with his brother officers?

A. Some liked him, and some did not.

Q. Did you observe anything like harshness or cruelty to the men?

A. I did not.

Counsel for the defence stated that he had no further questions to ask the witness; whereupon the witness was cross-examined by the judge advocate, as follows:

Q. You stated that his military dispositions were generally correct; you also stated that they were very slow in getting under way in going up to Fort Wagner. Did you consider that a proof of efficiency in a commanding officer?

A. I don't think that had anything to do with him at all. It took the men some time to get ready.

Q. You don't mean that, though they were long, they were unnecessarily long?

A. Yes, sir, I think they were.

Q. They were unnecessarily long?

A. Yes, sir.

Q. What was Captain Reynolds's general reputation among the officers of the battalion as to the correct treatment of his men, his adherence to regulation in drill, and his general conduct as an officer?

A. I have heard some officers say that he drilled the men too much. It was very warm weather there, and perhaps they required it. I very seldom got up to see him. He was up some distance from where we were first. I could see the men up there sometimes.

Q. Were his men not moderately well drilled?

A. Yes, sir; I thought they were.

Q. Do you consider that, in a hot climate, to make men absolutely perfect in drill, it is necessary to risk their health?

A. No, I do not.

Q. Was not the only movement made in march to Wagner by the flank?

A. Yes, sir, it was.

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Q. And therefore required no particular skill?
A. No; not to march that way.
Q. How did the efficiency of the battalion under Captain Reynolds compare with it under Colonel Reynolds's command?
A. It was better under Colonel Reynolds.

Re-direct by counsel for the defence:

Q. Did you observe any extraordinary sickness among the company commanded by Captain Reynolds?
A. Yes, sir; his company had more sick on the list than any other.
Q. That company had been there longer than any other?
A. Yes, sir.
Q. And had been in that climate much longer than any of the others?
A. The command had been lying in vessels off Charleston; I don't know how long. His company came from different vessels, the greater part from the Wabash.

Re-cross by the judge advocate:

Q. Was not the Wabash, during her entire stay in front of Charleston, lying in the most healthy possible location?
A. I don't know.
Q. Give your opinion, as far as your observation goes.
A. As far as I could judge, I should think she was.
Q. Do you know anything affecting Captain Reynolds's moral character? If so, state it to the board.
A. I do not know anything myself.
Q. What is his general reputation for morals?
A. I have heard it was bad.

Re-direct by counsel for the defence:

Q. These reports you have heard related entirely to social matters connected with females?
A. Yes, sir.

Counsel for the defence stated that he had no further questions to ask the witness.

Whereupon the testimony of the witness, as hereinbefore written, was read over to him, and acknowledged by him to have been correctly recorded.

Lieutenant HORATIO B. LOWRY, a witness on behalf of the defence, being duly sworn, testified as follows:

Examined by counsel for the defence:

Q. What is your name, and rank in the marine corps?
A. Horatio B. Lowry, first lieutenant.
Q. Do you know Captain Reynolds? If so, how long have you known him?
A. I do; I have known him since a year ago last August.
Q. Have you served under his command? If so, when and where?
A. I served under his command on Morris and Folly islands, South Carolina.
Q. How long a time?
A. About four months, I should think.
Q. How did he stand with his brother officers and messmates?
A. Very well, indeed.
Q. What was his conduct towards the officers and men under his command?
A. He treated all the officers with respect, and looked out for the interests of his men.
Q. What was his general professional reputation?
A. Very good.

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Q. From your own observation, what were his qualities as a commanding officer?

A. I think he is fully competent to command.

Q. Were you not an officer of the company commanded by him?

A. I was.

Q. What was the condition of that company?

A. In very good dicipline.

Q. In your judgment, was it drilled too much?

A. I don't think it was.

Q. Drilled at improper hours?

A. No, sir.

Q. How did that company compare, in efficiency, and proficiency in the drill and military tactics, with the other companies in the marine battalion?

A. I think it was equal to them.

Q. What was the condition of the marine battalion on Morris island at the time when Captain Reynolds assumed the command, in reference to its position, location, &c.?

A. It was located on the beach, located in two or three lines of tents, and it was placed there temporarily, as I understood it; that they went ashore with the expectation of staying but one or two nights; consequently, it was not laid out with the precision that I think it would otherwise have been.

Q. What course did Captain Reynolds pursue on assuming command?

A. He immediately ordered the camp to be laid out in streets, and laid out as near in accordance with the regulations as could be, taking into consideration the location of the camp.

Q. What attention, if any, did he pay to sanitary regulations in the camp?

A. The elevating of the tents, the placing of them at equal distances, putting two or three men only in a tent, removing the sinks quite a distance to the rear of the camp. I think I cannot specify anything further in particular.

Q. Were you present at the affair of Fort Wagner?

A. I was, sir.

Q. What was his conduct on that occasion, and what was the character of the general regulations made by him for that movement? Give a full answer.

A. I think he behaved as well as any officer would under the circumstances. I did not notice anything but what was perfectly right.

Q. Were his arrangements correct in a military point of view?

A. I know no reasons why they were not, sir.

Q. What was his general reputation as a soldier?

A. As far as I know, very good.

Q. Do you recollect anything about an order, previous to the Fort Wagner affair, stating that any one who flinched was to be shot?

A. Yes, sir.

Q. Was that order ever promulgated to the men?

A. Not that I am aware of; I was in possession of the order; I obtained it from the orderly sergeant of company A; at the time he gave it to me he stated——.

(Objected to by the judge advocate; whereupon the board was cleared, and after due deliberation the board reassembled, and the judge advocate stated the board sustained the objection made by him.)

Q. State all you know in regard to that order.

A. I know nothing about the order, only that such an order was written and given to the sergeant, but I never heard it on parade. I never heard anything about it.

Q. If it had been promulgated to the men, would not you necessarily, from your position in the company, have heard it so promulgated?

A. I should think I must, being one of the officers of the company.

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Counsel for the defence announced that he had no further questions to ask the witness.

Whereupon the witness was cross-examined by the judge advocate as follows:

Q. Was not the expectation of the battalion, during the whole stay on Morris island, that it would almost every day be ordered away?

(Counsel for the defence objected to the question.

Whereupon the board was cleared for deliberation upon the objection made by counsel for the defence, and on the reassembling of the board the judge advocate stated that the board had decided to overrule the objection, and ordered the witness to answer the question.)

A. I think they were all in hopes of going home every day.

Q. Were you not personally aware that the admiral made promises to that effect?

A. While on Morris island?

Q. Yes.

A. I was not.

Q. You say this order was given to the sergeant of the guard?

A. Yes.

Q. And posted in the guard tent?

A. I did not say so. I said it was given by Captain Reynolds to the orderly sergeant of company A, who did all his copying.

Q. Did you ever see that order in the guard tent?

A. I did not.

Q. Do you not consider that posting it in the guard tent is promulgating it to the command?

A. I should think an order posted in the guard tent was public.

Q. Especially if the commanding officer's name was signed to it?

A. I should think that it was intended to govern the command. I think an order posted there would be intended to govern the command.

Q. If posted in the guard tent would you necessarily have seen it?

A. No.

By a member of the court:

Q. Have you any knowledge as to whether Captain Reynolds directed said order to be posted in the guard tent?

A. I have not.

The judge advocate announced that he had no further questions to ask the witness.

Whereupon the testimony of the witness, as hereinbefore written, was read over to him and acknowledged by him to have been correctly recorded.

ABRAHAM N. BREVOORT, a witness on behalf of the defence, being duly sworn, testified as follows:

By counsel for the defence:

Q. What is your name and rank in the marine corps?

A. Abraham N. Brevoort, captain in the marine corps.

Q. How long have you been in the service?

A. Forty-four years.

Q. Do you know Captain Reynolds? and if so, how long have you been acquainted with him?

A. I have known him since his childhood.

Q. Have you served with him?

A. He served under my command for a few months, some five years since.

Q. You had an opportunity of judging of his professional capacity?

A. I had.

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Q. State specially and fully in regard to his qualifications as an officer?

A. He understood his duty and did it faithfully when he served with me.

Q. What was his general professional reputation, as far as you had an opportunity of judging?

A. I never heard much discussion in regard to his military reputation; I only speak from what I know of him.

Q. As regards his standing with his brother officers; how does he stand with them?

A. I cannot say.

The judge advocate stated that he had no questions to ask the witness.

Whereupon the testimony of the witness, as hereinbefore written, was read over to him and acknowledged by him to have been correctly recorded.

HENRY ETTING, a witness on behalf of the defence, being duly sworn, testified as follows:

By counsel for the defence:

Q. State your name, and rank in the navy of the United States?

A. Henry Etting, paymaster.

Q. Are you acquainted with Captain Reynolds, and how long have you known him?

A. I am acquainted with him, and have known him a good many years.

Q. Have you ever served with him? If so, when and where?

A. I served with him in the frigate Colorado in the Gulf squadron.

Q. How long have you been in the navy?

A. I am afraid to say all my life, but between forty and fifty years.

Q. What is Captain Reynolds's standing with his brother officers, according to your observation?

A. I believe the very best, sir, in the mess in which he was, and of which I myself was a member.

Q. What is his professional reputation?

A. For attention to duties, and zeal, as an indefatigable officer, I have never known one more attentive or zealous in the service.

Q. Did you observe the condition of the marine guard of the Colorado? If so, state what it was in regard to efficiency.

A. It was in perfect condition, proverbially; I think it was the general remark of the ship, and it was my own observation upon many occasions. I have never seen greater perfection in a guard.

Q. What is your opinion of his qualities as a commanding officer, as regards judgment and tact in the managing of men?

A. My opinion is that he is very well qualified and thoroughly capable for that command.

Q. Can you state any circumstances bearing upon the question of his zeal in the service while on board the Colorado? If so, please state them.

A. I don't know of any particalar circumstance, but he was generally attentive to his duties at all times, in my opinion.

Q. As to expeditions fitted out from the vessel; did you observe his conduct in respect to them?

A. I think he was always prompt, and attentive, and ready. His guards of men were got in readiness with all possible despatch on such occasions, to my knowledge.

Q. Do you recollect the cutting out expedition at the Pensacola navy yard?

A. I recollect it, sir.

Q. Were you on that expedition?

A. No, sir.

Q. Did he go on that expedition?

A. Yes, sir.

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Q. Did you see him after his return, and what condition he was in?

A. He returned wounded I think in the arm.

Q. Do you recollect whether, on the other occasions you have referred to, he volunteered or was ordered on these different expeditions?

A. I cannot positively say.

Q. What was his general health while on board the Colorado?

A. Sometimes he was on the doctor's list. His general health was good, but I have known him to be sick. His general health was good.

(Counsel for the defence stated that he had no further questions to ask the witness.

Whereupon the witness was cross-examined by the judge advocate, as follows:

Q. You were asked a question as to his professional reputation, and so on. You said it was good in attention to his duty and zeal; is that a full answer to the question, as much as you wish to make it?

A. Yes, sir.

Q. State whether Captain Reynolds left an allotment, and the amount of it?

A. I think he did.

Q. Do you remember the amount of it?

(Counsel for the defence objected to the question.

Whereupon the board was cleared for deliberation, and upon the reassembling of the board the judge advocate read aloud the decision of the board, as follows:

The board decided to overrule the objection made by the counsel for the defence, and directs the witness to answer the question.)

A. I do not remember the amount.

By a member of the board:

Q. Are you aware of any facts bearing upon the moral character of Captain Reynolds? If so, state them to the board.

A. I know no facts whatever.

By the JUDGE ADVOCATE:

Q. What is his general reputation for morals throughout the service?

A. I cannot tell; I don't know.

Q. What is his general reputation, as to morality, with the officers on the ship on which you both served, in the squadron in which you both served, and among officers with whom you have been in the service?

A. I have heard more upon that subject now, since this court has been convened, than I ever heard before. His reputation on board the ship in which we served together was in that respect quite fair. I heard nothing that I can recollect that was unfavorable to him with the officers of that ship, nor in the squadron. I cannot answer the latter part of the question, or rather I don't know.

The judge advocate stated that he had no further questions to ask the witness.

Whereupon the testimony of the witness, as hereinbefore written, was read over to him and acknowledged by him to have been correctly recorded.

The hour of adjournment having arrived, the board, on motion, adjourned till to-morrow morning at half past 10 o'clock a. m.

MARINE RETIRING BOARD, MARINE BARRACKS,
Brooklyn, New York, November 11, 1864.

The board met at 10.30 a. m., pursuant to the adjournment of yesterday.

Present: Lieutenant Colonel Ward Marston, United States marines, president

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of the board; Surgeon Charles Eversfield, United States navy, Lieutenant Colonel J. H. Jones, United States marines, Surgeon Delavan Bloodgood, United States navy, Major G. R. Graham, United States marines, members; Captain E. McDonald Reynolds, and his counsel.

The proceedings of yesterday were read aloud by the judge advocate and found to be correct.

Captain Reynolds desires to be informed whether the proceedings of this board, upon their former session in his case, form a portion of the record in the present proceedings.

The judge advocate informed Captain Reynolds that they did, and then proposed to call Captain De Camp as a witness on behalf of the government.

Captain Reynolds objects to the reopening of the case in behalf of the government, by the examination of Captain De Camp, and urges the following grounds:

First. It is an invariable rule in all military trials that the prosecution must, during the prosecution and before the accused comes on his defence, produce all the evidence he has to support the charge. After the prosecution has been closed and that fact announced and entered on the record, no further proof can be received. (See De Hart, p. 160.)

Second. The reasons for this rule are obvious, and are controlling in civil as well as military cases—a civil court would never depart from them, and there is no instance on record of departure from them by military courts; they are the following:

1. It is unfair for the prosecution to examine other witnesses after the accused has revealed his defence by the examination of his own witnesses.

2. It would be most unjust for the prosecution to examine other witnesses after the defence have examined and dismissed the majority of their witnesses, who might contradict such statements.

Whereupon the board was cleared, and after due deliberation upon the objection made by Captain Reynolds, the board decided to call Captain De Camp, and on the reassembling of the board the judge advocate announced its decision to that effect.

Captain JOHN DE CAMP, a witness on behalf of the government, being duly sworn, testified as follows:

Examined by the JUDGE ADVOCATE:

Q. What is your name, and rank in the navy?

A. John De Camp, captain in the navy.

Q. Please state how long you have known Captain Reynolds, and when and where you have served with him.

A. I have known Captain Reynolds a great many years. I cannot say exactly how many; I should think twelve or fifteen years. I have served with him at this navy yard. He was lieutenant of the marines, and I was commander of the yard. He served under my command on board the frigate Wabash, in the South Atlantic blockading squadron, which ship he left about the 1st of September last.

Q. Please state such facts as you know, of your own knowledge, bearing on Captain Reynolds's professional reputation.

(Captain Reynolds desires the court to instruct the witness, that in answer to this question he will not be allowed to speak of any of the matters included in the record of proceedings of a naval general court-martial convened on board of the United States ship John Adams, now in evidence in the case, that record being the highest evidence of such facts, and not capable in law of any alteration, enlargement, or other change by verbal testimony.

Whereupon the board was cleared, and after due deliberation the board decided to instruct the witness as requested by Captain Reynolds, and on the re-

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assembling of the board, the judge advocate announced its decision to that effect, and instructed the witness accordingly.)

A. I know nothing of my own knowledge.

Q. Nothing at the navy yard?

A. No, sir; nothing. I shall have to amend my answer, as I do know something about Captain Reynolds's professional qualifications, independent of that trial, as he served with me recently. I considered Captain Reynolds's command of his men on board of the Wabash faulty. His conduct as an officer while on board that ship, under my command, was peculiar, and not to my satisfaction as captain of the ship. Frequent complaints came to me from the marine guard, through the first lieutenant of the ship, and from the marines themselves, and I very frequently countermanded some orders which Captain Reynolds had given in respect to the guard. I don't know that I can specify anything further in reply to that question.

Q. Please give some of the reasons in detail—some of the orders that he issued that you disapproved of—and what treatment of the men it was that met with your disapproval generally?

A. I objected to the captain's general manner of drill on board—the general management of his men.

Q. Did he not drill according to regulations?

A. Indeed, I do not know, sir.

Q. Was his treatment of his men harsh or severe?

A. No, sir, it was neither; it was rather annoying to the men.

Q. What was the general ground of their complaints?

A. On one occasion the marines complained to me that six additional posts had been established on board by the captain without my knowledge or consent.

Q. How many posts were there in all on board the ship?

A. There were six or seven ordinarily. I recollect that was one complaint made by them, which I noticed at the time.

Q. What was the number of the guard of the ship?

A. Very large; there were a great many marines on board. I should suppose one hundred altogether.

Q. In all, with his additions, how many posts were there?

A. Thirteen or fourteen.

Q. Do you consider that that many posts was too hard work for that number of men, or that he had not a right to establish the posts without your order?

A. I considered it entirely unnecessary, and that he had no right to establish any additional posts without the authority of the captain of the ship.

Q. What are Captain Reynolds's qualifications physically, as far as they came under your personal knowledge, as a sea-going officer?

A. Judging his condition on board the Wabash, I should say it was bad.

Q. In what respect?

A. Health, sir.

Q. Was he, to your knowledge, much on the sick list?

A. Yes, sir; the latter part of the cruise he was on the sick list for several weeks.

Q. Do you know, from your remembrance of having consulted the binnacle list, or what other sources of information you had, as to what his diseases were?

(Question objected to, on the ground that the surgeon should be called, or that the written report of sick should be produced.

Whereupon the board was cleared, and after due deliberation the board decided that the witness should answer the question, and on the reassembling of the board, the judge advocate announced its decision to that effect, and directed the witness to answer the question.)

A. I know, regarding sickness on board the Wabash, only what is impressed on my mind by the report of the surgeon of the ship, by verbal reports, and

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conversing on the subject, and I recollect distinctly the case of Captain Reynolds. I could not say how the case was reported on the sick report every morning. I know, in a general way, what was reported on the list, but I cannot give the official expressions.

Q. Does your knowledge come from the binnacle list, or the official reports of the surgeon?

A. The clearness in my mind is established from the verbal reports, but as that is not to be received as evidence, I can only give in general terms my recollection of the report of the cases on the sick list, as submitted to the captain every morning by the surgeon.

(Counsel for the defence objected to the answer as being only hearsay.

Whereupon the board was cleared, and it was decided that the witness should confine himself to matters within his own knowledge.)

Q. What was Captain Reynolds's general reputation in the squadron as an officer and a gentleman?

A. I should say, among the older officers of the squadron, his reputation was bad; among the young marine officers, it was good.

Q. Please state in what respect?

A. I have heard Captain Reynolds discussed so often that I can only answer that in general terms.

Q. State first, morally?

A. I know nothing about him morally myself.

Q. Professional reputation?

A. I should think Captain Reynolds's general reputation, professionally, is bad. His general reputation is bad, morally—in the navy I mean.

The judge advocate announced that he had no further questions to ask the witness.

Whereupon counsel for defence cross-examined the witness as follows:

Q. Does not the executive officer of the ship authorize the posting of sentinels?

A. He did not on board the Wabash.

Q. Is it not the usual custom?

A. No, sir, I think not. I never knew it to be the custom.

Q. Have you ever been an officer of marines?

A. No, sir, I never have.

Q. Have you ever critically studied and examined the army regulations by which the marines are governed?

A. I have not.

Q. Are you capable of drilling or manœuvring a company or squad of marines?

A. Well, sir, I can answer that in general terms, that I can drill them ordinarily well.

Q. Do you consider yourself an expert in reference to the marine service?

A. By no means, sir, as a marine officer.

Q. You have said that there was a very large number of marines on board this vessel. If the additional posts, which you have referred to, had not been created, would there have been employment for this large body of men?

A. No employment other than the ordinary drill of the ship. Captain Reynolds stated to me, at the time that he put them on the posts, that he created the posts for the purpose of keeping them out of mischief.

Q. I understood your answers to several questions put by the judge advocate, relating to this subject, to amount to this: that Captain Reynolds's reputation morally was good among the younger officers, but bad among the older officers?

A. You misunderstood me, sir.

Q. How is that?

A. The connection that I made with the younger officers of the marine corps was professional, not moral.

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Q. Did not this matter of reputation morally, that you have mentioned, relate to stories connected with females, and relate to subjects which had occurred long before, to the best of your recollection?

A. It related entirely to females.

Q. And to matters that had occurred long before, to the best of your recollection?

A. I cannot answer.

Q. Who did you ever hear say anything against his professional reputation?

A. Well, sir, I have heard everybody that I ever conversed with upon the subject.

Q. Specify one person?

A. I decline answering that question; it would bring my friends and Captain Reynolds's friends in collision.

Q. You had official difficulties with Captain Reynolds, had you not?

A. Yes, sir.

Counsel for the defence stated that he had no further questions to ask the witness.

Whereupon the witness was further examined on the direct by the judge advocate, as follows:

Q. You were asked if you were acquainted with the army regulations by which marines are governed. Are marines governed on board ship by army regulations, except in the matter of manual and such tactics as they can perform on board ship? Are the general regulations of the army applicable to marines on board ship?

A. I understood so always; entirely by the naval regulations, except so far as their drill is concerned.

Q. You were asked, also, if you were able to drill a company. You are a graduate of the Naval Academy, are you not?

A. I am not, sir.

Q. In your younger days you were instructed in the manual, were you not?

A. I was brought up in the army until I was ten years old, and I then entered the navy. My father was in the army, and I have drilled on board of ship with marines frequently myself.

Q. You were asked if you were an expert. I want to know if you are acquainted with the law-meaning of the term "expert"?

A. I should say the term "expert" meant proficiency, aptitude, knowledge of the subject in question, as I should define it. Speaking of expert drilling, I can load a musket and show another man how to do it.

Q. Must an expert necessarily be a practical expert?

A. I am unable to answer.

Q. Are you not an expert in judgment? Are you not sufficiently acquainted with drill to positively give an opinion as to whether drill is properly conducted or not?

A. I am.

Q. You were asked a question of general reputation and you advised the counsel of the defence to go no further on the subject of females. What was your reason?

A. That was relating to the time specified by the counsel that these immoralities, or whatever you may term them, occurred. He was fixing the time, and I was not so particular myself on that.

No further questions being asked the witness, his testimony, as hereinbefore written, was read over to him, and acknowledged by him to have been correctly recorded.

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LOUIS E. FAGAN, a witness on behalf of the defence, being duly sworn, testified as follows:

Cross-examined by counsel for the defence:

Q. What is your name, and rank in the navy of the United States?

A. Louis E. Fagan, second lieutenant of the United States marine corps, on board the United States steam frigate Wabash, Hampton Roads.

Q. Do you know Captain Reynolds? If so, how long have you known him?

A. I have known Captain Reynolds for the last sixteen months.

Q. Have you ever served with him? and if so, when and where?

A. I have served with him in a marine battalion on Morris island, and afterwards on Folly island; also on board the frigate Wabash, in the South Atlantic blockading squadron.

Q. You were under his command on board the Wabash, were you not?

A. Yes, sir.

Q. During the time to which you refer, on what footing did Captain Reynolds stand with his men and brother officers?

A. He was considered by all the members of the mess as a high-toned gentleman, as far as I could understand from the way they spoke of him, with one exception; with the exception of Dr. Campbell, acting assistant surgeon.

Q. What was his general professional reputation?

A. He had the reputation of being a very fine officer, and one who attended to his duty in all respects.

Q. From your own observation, what is your opinion as to his general qualities as a soldier?

A. I think him a very fine one.

Q. What were his qualities as a commanding officer, in respect to tact, judgment, and the proper management of the men under his command?

A. He always treated the men kindly and with consideration, but exacted respect from them, and punished them, or reported them for punishment, whenever he thought they deserved it. He always treated them with kindness, and had a great deal of tact, I thought.

Q. What was the condition of the guard of the Wabash when you first found Captain Reynolds in command?

A. I went on board the same time Captain Reynolds did, and the men seemed then in rather poor discipline. They did not seem to have much discipline; they seemed as if they had their own way in everything. After Captain Reynolds had been on board for a month the appearance of the guard, and their discipline, were a great deal better. Afterwards he was interfered with on every occasion by the commanding officer of the vessel, Captain De Camp, and the men saw that Captain Reynolds, as a commanding officer, was totally ignored, and they accordingly went to the captain or executive officer for everything.

Q. Was there anything about Captain Reynolds's treatment of the men which was harsh or annoying to them?

A. No, sir. He never issued an order except it was perfectly legal, to the best of my belief.

Q. What was the size of the Wabash? How does she class as a vessel?

A. A first-class frigate.

Q According to your experience as a marine officer, is it necessary to establish more posts for the marines on a vessel of that description than upon a smaller vessel?

A. Yes, sir; I should judge so, although I have never been on a smaller vessel.

Q. Was there any particular reason connected with the employment of the men on board this vessel that made it desirable to establish numerous posts?

A. No, sir. On several occasions they wanted extra posts. Prisoners were confined on almost all parts of the ship at one time.

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Q. And this required extra posts?

A. Yes, sir. We had them in all parts; forward and aft.

Q. You have spoken of Captain Reynolds's professional reputation on board the frigate Wabash. Please extend your answer to his general professional reputation throughout the South Atlantic blockading squadron, among naval and marine officers?

A. I have always heard Captain Reynolds spoken of very highly as an officer and as a gentleman by a number of officers outside of the ship.

Q. Who in particular have you heard speak highly of his qualifications?

A. Admiral Dahlgren.

Q. What was Captain Reynolds's condition as to health, previous to the time of his arrest under the court-martial charges, on board the Wabash?

A. It was very good, to the best of my recollection. I don't recollect of his being sick a day or an hour. He was always ready to attend to his duty.

Q. How long had he been under arrest when he manifested any signs of sickness of any kind?

A. I believe it was two months under the hatches, without being allowed to go on deck.

Q. Where was the vessel at this time, during a greater part of that period?

A. Off Charleston.

Q. The weather was warm, was it not?

A. The weather was very warm. Yes, sir; very enervating.

Q. Were you attached to the marine battalion on Morris island?

A. I was.

Q. How was that battalion composed in reference to the points whether the men were old recruits or newly enlisted men?

A. There were a great many recruits in the battalion.

Q. What was the effect of the number of recruits as connected with the necessity for drill?

A. They needed a great deal of drill and instruction to put them in a proper condition to carry on duty.

Q. In your judgment, as a marine officer, under the circumstances, was the drill carried to excess by Captain Reynolds?

A. No, sir; it was not carried to excess. We drilled in the morning before sunrise, and I think once in the afternoon, if not more than that.

Q. Did you take part in the Fort Wagner affair?

A. Yes, sir.

Q. What is your opinion of Captain Reynolds's conduct as a commanding officer in preparing and conducting that movement?

A. I thought it was very good.

Q. Was there any unnecessary delay in the inception of the movement?

A. No, sir; the long roll was beaten some time before daybreak. The men turned out and marched to Fort Wagner under the command of Captain Reynolds, and when we arrived there the rebels were shelling the fort, and the men marched into the fort. Captain Reynolds had charge of them and showed good judgment in manœuvring them.

No further questions being asked the witness, his testimony, as hereinbefore written, was read over to him and acknowledged by him to have been correctly recorded.

Lieutenant Commanding LOWRY, a witness on behalf of the defence, being duly sworn, testified as follows:

Examined by counsel for the defence:

Q. State your name and rank?

A. R. B. Lowry, lieutenant commander in the United States navy.

Q. Are you acquainted with Captain Reynolds? and if so, how long have you known him?

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A. I am acquainted with him, and have known him a number of years—five, or six, or seven; I cannot exactly tell how many—seven or eight years.

Q. Have you ever served with him? and if so, when and where?

A. Yes, sir; I have served with him in the Pawnee on the home station, in the gulf of Mexico, and in the Potomac river, for about eight or ten months—nine months probably.

Q. Name the other places you have served with him?

A. Only there.

Q. On what footing did Captain Reynolds stand with his brother officers and men during the time you have mentioned on board the Pawnee?

A. On very excellent and good footing, friendly, sociable, and pleasant. I was caterer of the mess all the time.

Q. What was the condition of the guard on board the Pawnee at the time referred to?

A. Most efficient and in superior drill.

Q. Please give us a general idea of the duty performed by the Pawnee in respect to its calling for watchfulness, vigilance, and activity on the part of the officer in command of the guard?

A. The ship was in the gulf of Mexico, at Vera Cruz, at the time we anticipated trouble, in the fall of 1860, with Mexico—at Vera Cruz and Tampico. After the return of the ship, and at the commencement of the secession difficulties—the first secession of South Carolina—at Philadelphia, when we were preparing for any emergency, and afterwards when the ship went to Washington, at the inauguration of the President, and lying there ready for emergencies for some weeks after that. The marines were at Washington, and it was contemplated to be ready to land at any time to preserve peace, and to afford facilities for, or at least to assist in, the inauguration of the President. The ship was under arms on that day, the 4th of March, 1861, and Mr. Reynolds's conduct as a commander and officer of the guard, and as lieutenant, was everything that was creditable to himself as a soldier; and he had his men constantly under drill and discipline, and ready for any emergency. I was acting as executive officer, very frequently during all these periods, in the absence of the first lieutenant, Mr. Marcy, who was out of the ship a good deal.

Q. Were there any difficulties of any kind between you as executive officer and Captain Reynolds?

A. No, sir.

Q. Collision of authority?

A. No, sir; none whatever.

Q. What was his conduct in respect to subordination?

A. He was always subordinate and attentive to duty.

Q. Did you observe any indications of a quarrelsome disposition on the part of Captain Reynolds?

A. I never did. He was tenacious of what he thought his rights of commanding his guard, but nothing that ever went beyond the pale of military subordination. There was an occasion occurred between him and Mr. Marcy, which, I think, was the subject afterwards of a court of inquiry. My impression is that it was more of a mistaken idea of right and wrong than an intention of insubordination, or violation of discipline.

Q. What is his general reputation among the officers of the navy and marines as a soldier and commanding officer?

A. Well, his general reputation, as I know it, as a soldier and commanding officer, is very high. His reputation in my estimation, which is the most important—my own estimation of him, his reputation in my mind—is that he is quite equal to any officer I have ever known in the service; energetic, and constant in attention to his duties, and for drill not surpassed by any one that I have seen.

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Q. What was his condition as to health during the period you have referred to?

A. His health seemed to be fair. He was constantly on his feet drilling the men and attending to his duties, and I think his health was perfectly good, though that I don't know. He never was sick to my knowledge. He exhibited, in my eye, an energy and activity which denoted much muscular power and physical endurance. He very frequently wore me out, and I think myself a pretty good drill officer.

The judge advocate stated that he had no questions to ask the witness. Whereupon the testimony of the witness, as hereinbefore written, was read over to him and acknowledged by him to have been correctly recorded.

Captain TILTON, a witness on behalf of the defence, being duly sworn, testified as follows:

Examined by counsel for the defence:

Q. What is your name and rank in the marine corps of the United States?

A. My name is McLean Tilton; I am a captain in the United States marine corps.

Q. Do you know Captain Reynolds? and if so, how long have you known him?

A. I do know Captain Reynolds. I have known him for nearly four years.

Q. Have you ever served with him? and if so, on what occasion?

A. I have served with him on board the United States frigate Colorado, between June, 1861, I think, and April, 1862.

Q. On what terms did he stand with his brother officers and messmates on board the Colorado?

A. As far as I know on very good terms.

Q. From your own observation, what can you say in respect to his qualities as a soldier, relating particularly to his attention to duty, tact, and good judgment in reference to the management of his men?

A. I have always considered him a very zealous officer. A more indefatigable one to carry out his system I think I have never seen.

Q. What was the condition of the guard while under his command, as regards efficiency and proficiency?

A. I think, as far as their knowledge of the duty was concerned, they were as well disciplined as any guard I have ever seen.

Q. Did you observe anything like undue severity or harshness exercised by him towards the men under his command?

A. I think not.

Q. What is his general reputation as a soldier and as a commanding officer?

A. I have heard Captain Reynolds spoken of unfavorably as well as favorably.

Q. What was his general reputation as a soldier, founded on those statements?

A. I think his reputation as an officer is good—as a soldier.

Q. While on board the Colorado, did you make any observation as to the fact whether he was ordered upon expeditions, or whether he volunteered? How was it, in regard to his conduct in that respect?

A. I am pretty sure that he volunteered on almost every expedition that left the ship. This idea I am nearly positive of, of being a correct one, as on one or two, possibly more occasions, officers of the ship have spoken to me as if they thought Captain Reynolds ought to allow me an opportunity occasionally to go on these expeditions.

Q. You were not on the cutting-out expedition of the Judah?

A. No.

Q. Did you see the captain on his return?

A. Yes, sir.

Q. What condition was he in?

A. He had the mark of what appeared to me to be a glance from a Minié ball on the upper part of his forearm. I forget whether it was right or left; between

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the shoulder and elbow; and I afterwards saw his arm from the shoulder to the elbow bruised, which I have no doubt was from the effect of the shot or Minié ball.

Q. What was his general health while on board the Colorado?

A. I think his health was good, as far as I remember. He is troubled I believe occasionally with dyspepsia, but not to any great extent.

Q. Never off duty, was he?

A. As far as my knowledge goes, he never was. I won't be positive; I cannot say; I don't recollect whether he was or was not on the sick list; I cannot say; I think he attended to his duties even after this expedition in Pensacola bay to take the Judah; I don't remember whether he was sick.

The judge advocate stated that he had no questions to ask the witness.

Whereupon the testimony of the witness, as hereinbefore written, was read over to him, and acknowledged by him to have been correctly recorded.

Lieutenant BISHOP, a witness on behalf of the defence, being duly sworn, testified as follows:

Examined by counsel for the defence:

Q. What is your name, and rank in the United States marine corps?

A. Henry J. Bishop, first lieutenant.

Q. Do you know Captain Reynolds? and if so, how long have you known him?

A. I have known Captain Reynolds about two years and a half; I think two years.

Q. Have you ever served with him? and if so, when and where?

A. I was in the same squadron with him about ten months; I was on an expedition with him to Jacksonville.

Q. When and where, and what squadron was it?

A. The South Atlantic blockading squadron. I was on duty with him last winter; I went on an expedition to Jacksonville, Florida, last February.

Q. Who commanded?

A. Captain Reynolds commanded the marines. The expedition was under the command of Admiral Dahlgren.

Q. State the general nature of that expedition to Jacksonville, Florida. What took place? What part did the marines perform?

A. I had command of the second company.

Q. Captain Reynolds commanded what?

A. He commanded both companies. There were two companies, termed the first and second division.

Q. Give a general account of that expedition. It was an expedition to the enemy's country, was it not?

A. Yes, sir; we were on the expedition about a week.

Q. What was Captain Reynolds's conduct in respect to soldierly qualities on that occasion—the management of the men with tact and judgment, and all those other peculiarities of a commander of marines? State how he behaved.

A. He behaved very well as far as I saw. The men were drilled every day, and drilled going down on the steamer. We left Port Royal on Sunday, and they were drilled both in the forenoon and afternoon, as we were going down.

Q. Were the men under his command in an efficient condition?

A. Yes, sir.

Q. In respect to the comfort of the men on that expedition, what is your judgment of the arrangements made by Captain Reynolds?

A. He did everything that he possibly could to make the men comfortable, both on board the ship and on shore. We were on shore one night at Mayport Mills, at the mouth of the St. John's river.

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Q. Did you observe on that occasion any deficiency in any of those arrangements that a prudent and judicious commander would have made?

A. None at all, sir.

Q. What was his position and standing during the whole time you have mentioned, all through your period of connection with him, among his brother officers and with his men?

A. His standing was good, as far as I ever knew; very good.

Q. Particularly on the South Atlantic blockading squadron, what was Captain Reynolds's reputation as an officer and a gentleman?

A. His reputation was very good.

The judge advocate stated that he had no questions to ask the witness.

Whereupon the testimony of the witness, as hereinbefore written, was read over to him and acknowledged by him to have been correctly recorded.

The testimony on both sides having been closed, Captain Reynolds asked time until Monday next to prepare his defence, which was granted by the board which then adjourned until Monday morning, November 14, at 10.30 a. m.

MARINE RETIRING BOARD, MARINE BARRACKS,
Brooklyn, New York, November 14, 1864.

The board met at 10.30 a. m., pursuant to the adjournment of Friday last.

Present: Lieutenant Colonel Ward Marston, United States marines, president; Surgeon Charles Eversfield, United States navy, Lieutenant Colonel J. H. Jones, United States marines, Surgeon D. J. Bloodgood, United States navy, Major G. R. Graham, United States marines, members; Captain F. McD. Reynolds, and his counsel.

The judge advocate read aloud the proceedings of Friday last, which were found to be correct.

Whereupon the counsel for Captain Reynolds submitted his defence, which being read aloud by the counsel for the defence, the board was cleared, and after mature deliberation resolved to report upon Captain Reynolds case as follows:

The board, after mature deliberation on the evidence before it, and availing itself of all the lights within its reach, do find that Captain E. McD. Reynolds is mentally, morally, professionally, and physically fit for the performance of all the duties of his office.

WARD MARSTON,
Lieutenant Colonel and President.
C. EVERSFIELD,
Surgeon United States Navy.
JAMES H. JONES,
Lieutenant Colonel and member.
DELAVAN BLOODGOOD,
Surgeon.
GEORGE R. GRAHAM,
Major United States Marines.
JOHN C. HARRIS,
First Lieutenant and Judge Advocate.

Mr. PRESIDENT AND GENTLEMAN OF THE BOARD: The evidence on both sides being now closed, it is the privilige of the defendant, with your permission, to lay before you such arguments and suggestions as are pertinent to the question under consideration.

The question is one of the highest importance to the defendant; it affects to a certain extent his honor, which is dearer to him than life; it affects his stand-

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ing in the honorable profession which he has always loved and respected; it affects his future power and capacity to serve his country, that country to whose service he has devoted the best years of his life, and in whose service he (as every true soldier should) had fondly hoped to live, and, when the eternal summons came, to die. It affects, moreover, his power, at this particular crisis, to be actively useful in sustaining the national cause against armed rebellion, and thus repaying to his country a portion of that debt which as a patriotic soldier he feels that he owes to her. Mingled with these considerations are those of a personal character; the good opinion of relatives and friends, and those natural feelings which a man of active temperament would properly entertain in times so stirring as the present, upon the mere suggestion of being withdrawn from all participation in the struggles and the triumphs of the comrades whom he loves.

The defendant therefore entreats the board, in view of the considerations he has presented, and in view of that bond of unity by which all true soldiers and all true men are made brothers in feeling, to regard his case as their own, and so to act in respect to him, as they would act in respect to themselves, if all the events of their past lives were coming for judgment before the silent tribunal of their own consciences, and the question were put to themselves in regard to themselves, as it is now put to them in regard to him.

The present proceedings are authorized by the 16th and 17th sections of an act of Congress entitled "An act providing for the better organization of the military establishment," approved August 3, 1861, which reads as follows:

"Sec. 16. *And be it further enacted*, That if any commissioned officer of the army or of the marine corps shall have become, or shall hereafter become, incapable of performing the duties of his office, he shall be placed upon the retired list and withdrawn from active service and command, and from the line of promotion," &c.

"Sec. 17. *And be it further enacted*, That in order to carry out the provisions of this act the Secretary of War, or the Secretary of the Navy, as the case may be, under the direction and approval of the President of the United States, shall, from time to time, as occasion may require, assemble a board of not more than nine nor less than five commissioned officers, two-fifths of whom shall be of the medical staff. The board, except those taken from the medical staff, to be composed, as far as may be, of his seniors in rank, to determine the facts as to the nature and occasion of the disability of such officers as appear disabled to perform such military service," &c.

It will be observed that the board thus organized differs widely in its nature and authority from a court-martial, although governed by the same general rules of procedure, and that its jurisdiction is to inquire into cases of disability, and not to try and punish for offences.

This distinction is quite obvious, upon the very face of the act, and should be borne in mind in examining and passing upon the evidence. Thus moral delinquency may be established, which might, under certain circumstances, be deemed a proper matter for charges and specifications, and the action of a court-martial, but if it does not tend to show disability, it can have no weight before a board organized under this act; in fact, were such a board to consider evidence of moral offences, irrespective of its bearing upon the question of disability, it would exceed its powers and take upon itself the prerogatives and authority of a court-martial. This would be clearly improper, because the moment the question of disability is lost sight of the defendant stands as one charged with an offence, not as one supposed to be disabled, and is therefore entitled to a copy of the charges and specifications, to a list of witnesses, and to all the other privileges of a court-martial trial.

This board is therefore respectfully requested, in forming their judgment upon this case, to look upon the defendant as one suspected of disability for service,

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and not as one charged with an offence, and to examine the evidence with the single view to his competency to perform the duties of his office.

It is evident that the Navy Department fully concurs with the defendant in this view of the jurisdiction of the board; for the former report of this board, to the effect that "Captain E. McD. Reynolds is physically competent to perform the duties of his office," was not returned because the department desired that he should be tried for suspected moral delinquincies, but in order that the board might, taking his past life into consideration, judge of his general fitness for the service, and whether "consistently with what is known of him in the past, and what may be expected of him in the future, his present disability, or any similar disability, is likely to return."

On both these points the defendant takes direct issue with the prosecution, and avers the fact to be, and that it is fully proven by the evidence—

1st. That his temporary sickness did not in any manner arise from vicious or immoral indulgencies, but, on the other hand, from debility caused by two months' imprisonment in a hot climate, on board the Wabash, under the hatches, without being allowed to go on deck.

2d. That he is not permanently disabled, and that no proof has been offered which tends to show that the temporary sickness under which he labored is liable to return, or that there is anything about his present mode of life and conduct which renders it likely to return.

The great fact stands out in this case, as proved by the testimony of Surgeon Thos. L. Smith and Surgeon Benjamin Vreeland, and confirmed by the official examination of the learned medical members of this board, that the defendant is not physically disabled; and this fact has also been found by the board itself, and is entered upon the record, so that it cannot now be disputed.

It remains then but to inquire whether the temporary disability under which Captain Reynolds labored is likely to return; and the question is most pertinent in this connection: What caused it? The prosecution, doubtless, will take the broad ground that it was caused by excessive sexual intercourse, but all the medical authorities, both the witnesses examined in this case, and others, agree that *ureteritis* may be produced by a large number of causes of which that just mentioned is but one; and Surgeon Vreeland, the only witness whose testimony points that way, does not depose positively that such is the case, but states merely the probability; and upon his cross-examination says that the reason why he thinks that, in Captain Reynolds's case, it was caused by sexual indulgence is, "because in the majority of cases of that affection that is the cause."

It is submitted that the rule that the prosecution must prove their case, and that the benefit of all doubts must be given to the defendant, governs in this as in all other instances, and that therefore it is to be considered as not proven in this case that the defendant's trouble was caused by excessive sexual intercourse. Such a presumption would also be entirely in opposition to the evidence, which shows constant active duty on the part of the defendant during almost the whole of the past four years, under circumstances rendering such indulgence impossible, namely: In the Pawnee in 1860–'61, in the Colorado in 1862–'63, and in the Wabash in 1863–'64. It is also in opposition to the testimony of Lieutenant Fagan, who states that his condition as to health previous to his arrest under the court-martial charges on board the Wabash was very good; that he does not recollect of his being sick a day or an hour, and was always ready to attend to his duty; and, furthermore, that it was not until he had been two months under the hatches without being allowed to go on deck, in an extremely warm climate, that he manifested signs of sickness of any kind.

The defendant, therefore, respectfully submits to the board that the record does not show that excessive sexual intercourse was the cause, either immediate or remote, of his temporary disability.

The next question which arises is, whether there is anything in the past or

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the present mode of life of the defendant which renders that disability likely to return.

It might here be urged, the defendant claims, that it will be time enough to raise this question when the disability does return, if it ever should, and that this board has nothing to do with hypothetical cases; but inasmuch as it may be claimed that an officer whose habits are such as to raise the presumption that disability may at some time arise is not to be trusted with command, at a period so momentous as the present, the question will be fully and fairly met.

The board will remember that the broadest latitude was allowed to the prosecution upon this subject; the examination was allowed to extend over the whole period of his professional life; general reputation for morality, founded evidently upon the mere gossip of the wardroom, took the place of facts, and matters of a private and social character were exhumed from dusty records and arrayed against him. All this was inexpressibly painful to the defendant, and he is convinced that few officers would contemplate such an ordeal without dread; but even with all this broad latitude, the defendant contends that, in the only point of view in which, as was before stated, such evidence has any bearing, the prosecution has utterly failed to make out a case.

Of what does that evidence consist? First, in point of date, is the evidence of Major McCawley, relating back to 1847, the time of the Mexican war, when the defendant was a boy of twenty years, and gave some offence to the major by dancing frequently at public balls with ladies whom the major regarded as of loose character. This was wrong, undoubtedly, and if the major, instead of treasuring up the circumstance in his memory for seventeen long years, and until questions relating to promotion were being agitated, had made a clean breast of it, then and there, to the commandant, the young lieutenant would probably have received a quiet reprimand, and would have been advised to be more select in the choice of his lady acquaintances for the future. Nothing more is heard of the defendant until 1857, ten years afterwards, when Commander Wyman testifies to a mass of rumors and wardroom gossip in relation to the defendant and two ladies, the one residing at Honolulu, and called "Steamboat Jack," and the other a resident of Acapulco; but on his cross-examination he admitted that he could not of his own knowledge say that such a person as "Steamboat Jack" ever existed, and as for the Acapulco lady it was evident that she might have been a vestal for aught he knew to the contrary. The worthlessness of such testimony was strikingly exemplified by the fact that Commander Wyman stated that it was reported to him that the defendant was called in Acapulco by a certain Mexican term or Spanish term of reproach, signifying a short, thickset or crop-haired fellow, a term not in the least applicable to the defendant, and evidently intended for some one else. Then we have the testimony of Captain Davis in relation to his refusal to introduce the defendant to two ladies who took passage in the ship St. Mary's. For what reason he refused it is hard to imagine, as the ladies were of the highest respectability, and the whole affair, upon a candid view of the subject, seems rather to be due to some petty wardroom troubles than to any other cause. There is also some vague and uncertain evidence that the defendant was afflicted at this time with a venereal attack of a slight and unimportant character, which did not prevent his attending to his duties. It is evident, however, that the supposed moral delinquencies on board the St. Mary's were not very serious, inasmuch as Admiral Davis expressly testifies that he did not report the defendant, nor prefer charges against him, which it would clearly have been his duty to do, if the matters referred to had been of any practical importance.

All these facts are further confirmed by the testimony of Surgeon Taylor, of the St. Mary's, who states, in addition to what is important in this connection, namely, that defendant's sickness did not produce any permanent physical disa-

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bility, that his general health was excellent. He also testifies to the fact that there existed official difficulties, which caused non-intercourse between him and the wardroom officers, in contradiction of Admiral Davis's statement that the defendant's vicious conduct caused this alienation; and stated, moreover, that the defendant was on intimate terms with all the staff officers of the St. Mary's.

These comprehend each and all of the facts testified to by the witnesses for the prosecution, and their remaining evidence upon the point in question is mere vague rumors, in relation to immoral practices with females, admitted under the name of general reputation.

The defentant now comes to the great sorrow of his life, that which is spread forth upon the record of the supreme court introduced here in the evidence. Upon this subject he desires to say nothing, except to refer to the fact that the occurrences therein referred to took place nearly five years ago; that they might possibly have formed a proper subject for a court of inquiry or court-martial at the time upon charges and specifications, but that they have no relation to the questions before the board—the present and future capacity of the defendant for military duty.

With these remarks the defendant leaves this painful subject, convinced that from it have sprung the greater portion of the reports affecting his moral character, reports which have oftentimes almost discouraged him in the new course of life which he has since that time pursued, and he throws himself upon the kind feelings and consideration of his brother officers upon this board, trusting that the time will come when the errors and thoughtless actions of his youth will be overshadowed by the public services of his maturer years; and suggesting to them that, with full knowledge of the weakness of human nature, this was the only crime which the Saviour when on earth forgave.

Subsequent to the date of that record, nearly five years ago, not one single insolated fact has been proven against the moral character of the defendant. If any such facts existed would they not have been proven before this board?

Would not rumor, with her thousand tongues, have revealed them to the able, zealous judge advocate, and insisted upon his bringing them forward?

No such facts exist, and therefore no such facts have been proven.

It is not denied that wardroom rumors still continued to float about, but they all referred to his former life, and not one of them has been traced or can be traced to a period within five years of the present time.

The defendant refers with pride to his honorable social record for the past five years. Commander Cooper testifies to the good terms upon which he stood with his brother officers on board the Colorado, and that his general reputation for morals was good. Lieutenant Lowry testifies that he stood very well indeed with his brother officers and messmates at Morris and Folly islands. Paymaster Etting says that his standing with his brother officers on board the Colorado was the very best, and that he was a member of his mess; that his reputation on board the ship in which they both served was quite fair, and that he heard nothing that he can recollect that was unfavorable to him with the officers of the ship, nor in the squadron. Lieutenant Fagan testifies that during the time he served with the defendant he was considered by all the members of the mess as a high-toned gentleman, and that they all spoke well of him, with a single exception. Lieutenant Commander Lowry, who served with the defendant for about ten months on board the Pawnee, testifies that Captain Reynolds was on a very excellent footing with his brother officers, friendly, sociable, and pleasant. Captain Tilton states that defendant was on very good terms with his brother officers on board the Colorado. Lieutenant Bishop testifies that his standing with his brother officers in the South Atlantic blockading squadron was very good, and that his reputation as an officer and gentleman was good.

Is it probable that, if during the past five years the reputation of the defend-

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ant had not stood well, he would have occupied such a position with his brother officers and messmates as the record shows?

The defendant points to this record with pride, declaring that, whatever may have been the errors of his youth, the good opinion and friendly association of so many officers affords a proof that nothing can now be urged against his good conduct and morality.

It is inconceivable that, in a profession known to be so delicate and fastidious upon matters of honor, the right-hand of fellowship should have been so freely extended to the defendant during the past five years by officers of the nicest sense of honor, were it not for the fact that his whole conduct showed that the wild oats of his youth had been sown, and that he had completely reformed all that was objectionable in his conduct before.

The case of the prosecution, then, is fatally defective in not bringing down proof of immoral conduct to the present time; for surely testimony which ends five years ago, and leaves the defendant in possession of a powerful constitution and unimpaired health, can have but little bearing upon his present capacity for military service, unless this board are of the opinion (which it is thought that experience does not sanction) that no one ever lays aside youthful errors and indiscretions. Let him among all of us who is without sin "cast the first stone" at the defendant.

So far, then, as the question of immorality bearing upon the present or future physical condition of the defendant is concerned, the case of the prosecution appears to fall to pieces of its own weakness, notwithstanding all the ingenuity and ability displayed by the judge advocate in endeavoring to hold it together.

Is there any reason to suppose that the record of the defendant for the next five years, or for the next five and twenty years, will be less honorable than that for the last five years?

Dismissing then this subject, which has already occupied more time than it deserves, we come to the consideration of the military and professional career of the defendant, which may be briefly summed up from the testimony as follows:

As a boy of twenty years, he served with distinction in the Mexican war, and, according to the testimony of Captain McCawley, his conduct at the siege of Chapultepec, and at the garita of San Cosme, was very good. Captain Wyman testifies to his zeal and efficiency as an officer an board the St. Mary's, his conduct on board the Pawnee at the commencement of the rebellion, when great activity, tact, and judgment were required, has been proved by Commander Lowry to have been "everything that was creditable to himself as a soldier;" and he further testifies, "He exhibited, in my eye, an energy and activity which denoted much muscular power and physical endurance. He very frequently wore me out, and I think myself a pretty good drill officer." He volunteered for the cutting-out expedition at Pensacola, and was severely wounded in the attack, as testified to by Commander John H. Russell. He was constantly vol unteering on expeditions, as testified to by Captain Tilton. He commanded a battalion of marines in the movement upon Jacksonville, and managed a march of a week or more through the enemy's country with energy, prudence, and discretion. He commanded the marine battalion at the Fort Wagner affair, and conducted the movement in such a manner as to gain the approbation of all the officers who have testified before this board.

It is submitted that this is not a record of which the defendant has any reason to be ashamed, and that it certainly is not one which indicates that he should be retired from active service.

The proficiency of the defendant as an officer, and his general reputation as a soldier, are established by every officer of marines who has been examined, and are criticised only by Admiral Davis and Captain De Camp, who are no more to be deemed experts in relation to the duties of marines than marine officers are to be deemed experts in respect to the duties of sailors.

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It is submitted that all the difficulties between Admiral Davis, Lieutenant Wyman, Commodore Rowan, and Captain De Camp arose from the want of a proper code or series of general regulations defining the duties of marines on shipboard, the want of which has been long felt by every intelligent officer of the corps.

Major McCawley thinks that defendant's professional qualifications were good, but criticises his judgment, particularly in respect to a certain order which the defendant does not appear to have ever promulgated, and which he had the good judgment to withdraw upon remonstrance, and also in respect to the strictness with which he enforced cleanliness among his men in hot climates, a venial fault, surely, and one which must have conduced to the comfort of the men themselves. The same fault is found by Admiral Davis, but inasmuch as the regulations adopted were those of the army, and the point at which all cavilling is made is that a ship-of-war is not a transport ship, the whole matter appears too trivial for further consideration. Major McCawley, however, states that the efficiency of the marine battalion at Morris island was not impaired after Captain Reynolds took command, which, considering the high reputation of Colonel Zeilin, its former commander, is no small praise.

Colonel Zeilin, commandant of the marine corps, whose testimony as an expert is more valuable in a legal point of view than that of a thousand captains in the navy, testifies that while defendant commanded a company under him at Morris island, he performed his duties to his entire satisfaction. Commander Theodorus Bailey says he was zealous, a capital drill officer, and that he does not know that he ever met a better drill officer. Commander Russell says that his professional reputation he never saw surpassed, in energy, in the discharge of his duties, and in drilling and exercising his men, and that as a messmate he had no objection to him, and never heard any expresed. Commander Cooper testifies as regards his professional capacity: "I think he stands among the first officers of the marine corps; that is my opinion, from what I have seen of Captain Reynolds on duty; that is my opinion, based upon the general good condition of his guard, with regard to discipline, dress, drill, and general good attention to their duties." Captain Hebb says, "I thought him a very good officer."

Lieutenant Lowry testifies that defendant's general professional reputation is very good, and that he thinks him fully competent to command. Captain Etting testifies that for attention to duties and zeal, as an indefatigable officer, he has never known one more attentive or zealous in the service, and his opinion is that he is very well qualified and thoroughly capable for command. Lieutenant Fagan states that defendant had the reputation of being a very fine officer, and one who attended to his duty in all respects; that he always treated the men kindly, and with consideration, and showed a great deal of tact.

It is to be observed that all the witnesses above referred to explicitly controvert the statements of Admiral Davis and Captain De Camp, that defendant treated his men with undue harshness and severity.

Commander Lowry testifies that defendant's "general reputation as a soldier and commanding officer is very high. His reputation, in my mind, is that he is quite equal to any officer I have ever known in the service, energetic and constant in attention to his duties, and for drill not surpassed by any one that I have ever seen."

But why prolong this examination? So stands defendant's record as a soldier, as bright as polished silver, and the foul breath of slander cannot tarnish it, or rob it of its lustre.

Mr. President and members of the board, Captain Reynolds's entire professional, moral, and social life, for a period of sixteen years and upward, is now before you. It is not claimed by him that there are no faults there; he feels those faults as keenly, and regrets them as deeply, as his worst enemy could wish. His nature is open and ingenuous, so that there has been but little concealment,

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and the picture presented is that of a warm-hearted young man who has fallen into some of the errors of youth, and has turned aside from them in time, devoting all his thoughts, all his aspirations, all his energies to the service of his country in this her hour of trouble, and earning for himself a high and noble reputation as a patriot soldier. He is strong and hearty; still in the bloom of youth; his powers of mind and body undoubted. You have yourselves declared him to be physically competent; the evidence shows that, for the past five years, by the exercise of a powerful will, he has turned aside from those courses which might impair his health and strength. He stands to-day with a character established on this record, even by the testimony of the witnesses of the prosecution, as one of the ablest, the most zealous, and the most energetic officers of the marine corps.

This board is not organized to punish old transgressions, but to examine present disability; it is composed of officers in whom the defendant feels the highest confidence, and he now confides his position, his reputation, and his honor, to their charge.

NOVEMBER 14, 1864.

E. McD. REYNOLDS,
Captain Marines.
WILLIAM HENRY ANTHON,
Counsel for Defendant.

NEW YORK SUPREME COURT, CITY AND COUNTY OF NEW YORK.

CATHARINE V. N. REYNOLDS, plaintiff,
against
EDWARD MCDONALD REYNOLDS, defendant. } Summons for relief.

To the defendant:

You are hereby summoned and required to answer the complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your answer to the said complaint on the subscriber at his office, No. 104 Broadway, in the city of New York, within twenty days after the service hereof, exclusive of the day of such service; and if you fail to answer the complaint within the time aforesaid, the plaintiff in this action will apply to the court for the relief demanded in the complaint.

Dated New York, February 18, 1860.

JOHN SHERWOOD,
Plaintiff's Attorney, 104 *Broadway, New York.*

NEW YORK SUPREME COURT.

CATHARINE V. N. REYNOLDS
against
EDWARD MCDONALD REYNOLDS.

CITY AND COUNTY OF NEW YORK, *ss:*

The complaint of the plaintiff, Catharine V. N. Reynolds, of the city of Brooklyn, and the county of Kings, respectfully shows to the court:

First. That she is a daughter of Benjamin R. Tinsler, surgeon in the navy of the United States. That, on the 26th day of November, in the year 1851, this plaintiff was married at Charlestown, in the State of Massachusetts, by the Reverend Thomas R. Lambert, to the defendant, Edward McDonald Reynolds,

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who was then and still is a commissioned officer of the marine corps of the navy of the United States.

Second. That this plaintiff thereafter, with her husband, the defendant, resided at various naval stations, viz: at Charlestown, in the State of Massachusetts; at Brooklyn, in the State of New York; at Philadelphia, in the State of Pennsylvania; and at Norfolk, in the State of Virginia. That, for about three years prior to the month of November, 1856, they resided at Brooklyn aforesaid, and that at about that time the said defendant, pursuant to his orders, went to sea in the course of his business or profession, and was absent from the country until in or about the month of March, 1859, this plaintiff in the mean time residing with her parents at Charlestown aforesaid. That, since the month of March 1859, when the said defendant returned from sea, they resided as before at Brooklyn until the defendant was, on or about the 9th day of May, 1859, ordered to the navy yard at Charlestown aforesaid; and that thereupon the said defendant, with the plaintiff, went to Charlestown and there resided until on or about the 20th day of October, 1859, when they returned to the said city of Brooklyn to reside, and that this plaintiff, since that time has been, and is now, a resident and actual inhabitant of the city of Brooklyn, county of Kings, and the State of NewYork; and that the said defendant since that time has been, and is now, a resident and actual inhabitant of the said city of Brooklyn.

Third. This plaintiff further shows, upon her information and belief, that, on or about the 22d day of November, 1859, the said defendant, at No. — Hicks street, in the said city of Brooklyn, committed the act of adultery with one Emma Foster. That, at various times previously thereto and at places unknown to this plaintiff, he had committed said act of adultery with the said Emma Foster, having commenced criminal intercourse with her at Boston, in the State of Massachusetts, in or about the month of August, 1859. This defendant further saith, upon her information and belief, that, on or about the 28th day of January, 1860, again, and at the same place, No. — Hicks street, in the said city of Brooklyn, that he committed the act of adultery with the said Emma Foster. That this plaintiff is informed and believes that the said place in Hicks street, in the city of Brooklyn, is the house of one Van Syckle, but that she is now unable to furnish the number thereof with more certainty. That she is further informed and believes that, on or about the 25th day of February, 1860, on board a steamboat going from the city of New York to Norwich, in the State of Connecticut, the said defendant again committed adultery with the said Emma Foster, and further that at various times, from the 8th to the 11th day of February, 1860, at a hotel to this plaintiff unknown, in Portland, in the State of Maine, that the said defendant committed frequent acts of adultery with the said Emma Foster.

Fourth. This plaintiff further saith that the aforesaid acts of adultery of the said defendant were and each of them was committed without the consent, connivance, privity, or procurement of this plaintiff; that five years have not elapsed since the discovery of the fact that such adultery had been committed, and that this plaintiff has not voluntarily or in any manner cohabited with the defendant since such discovery.

Fifth. This plaintiff therefore demands judgment that the marriage contract of this plaintiff with the defendant may be dissolved, and that this plaintiff may be forthwith divorced from the said defendant. That the defendant may further be ordered and decreed to make such suitable allawonce to this plaintiff for her support and maintenance as may seem proper, and that she have judgment for costs.

JOHN SHERWOOD,
Plaintiff's Attorney, 104 *Broadway, New York.*

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CITY AND COUNTY OF NEW YORK, *ss:*

Catharine V. N. Reynolds, being duly sworn, says that she is the plaintiff in the above-entitled action; that she has read the foregoing complaint and knows the contents thereof; that the same is true of her own knowledge, except as to the matters which are therein stated upon her information and belief; and as to those matters that she believes it to be true.

CATHARINE V. N. REYNOLDS.

Sworn to before me this 18th day of February, 1860.

HENRY E. HOWLAND,
Notary Public for the City and County of New York.

NEW YORK SUPREME COURT.

CATHARINE V. N. REYNOLDS
against
EDWARD MCDONALD REYNOLDS.

Please take notice that on the summons and complaint, affidavits of service of the same, and that no answer has been received, and the other papers and proceedings in this cause, I shall move before one of the justices of this court, at special term at chambers thereof, at the City Hall, in the city of New York, on the 15th day of March, 1860, at 10 o'clock a. m., or as soon thereafter as counsel can be heard, for a judgment and for a rule or order that the cause be referred to ———— ————, esq., as sole referee, to take proof of the allegation in the complaint, and to determine the matters at issue herein, or for such other or further order as to the court may seem proper.

Dated New York, March 13, 1860.

Yours, &c.,

JOHN SHERWOOD,
Plaintiff's Attorney.

C. D. NEWMAN, Esq.,
Defendant's Attorney.

Indorsed:

Due service of a copy of within notice is hereby admitted.

C. D. NEWMAN,
Defendant's Attorney.

NEW YORK, *March* 13, 1860.

NEW YORK SUPREME COURT.

CATHARINE V. N. REYNOLDS
against
EDWARD MCDONALD REYNOLDS.

At a special term held at New York, on the 15th day of March, 1860. Present, Hon. Josiah Sutherland, justice.

The plaintiff herein having applied to the court for judgment in this cause, the defendant having failed to answer the complaint—

On reading and filing the summons and complaint, and due proof of service thereof, and the notice of appearance of Clement D. Newman, esq., as the attorney for the defendant, and also an affidavit of no answer or demurrer having been received in the cause, now, on motion of John Sherwood, attorney for the plaintiff, it is ordered that it be referred to Benajah Leffingwell, esq., to take proof of all the material facts charged in the complaint and to report thereon with all convenient speed.

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SUPREME COURT, CITY AND COUNTY OF NEW YORK.

CATHARINE V. N. REYNOLDS
against
EDWARD MCDONALD REYNOLDS.

To the Supreme Court:

In pursuance of an order from this court, made in the above entitled action, dated March 15, A. D. 1860, whereby it was referred to the undersigned referee to take proof of all the material facts charged in the complaint, and report thereon. I, Benajah Leffingwell, the referee in the said order named, do report that I have been attended by the attorneys for the respective parties, plaintiff and defendant, and have taken proof of all the material facts charged in the complaint, and that such proofs, subscribed by the witnesses, who were examined before me, and also the deposition of Richard P. H. Durkee, which was produced in evidence, are hereunto annexed.

I do further report that I find all the material facts charged in the complaint to be true.

I do further report that it was proven before me that the plaintiff and defendant were married at Charlestown, in the State of Massachusetts, in or about the month of November, A. D. 1851, as stated in said complaint, and that at the time of the commencement of this action the plaintiff and defendant were both residents of this State.

I do further report and find the facts to be, that from about the last of October, A. D. 1859, to the last of January, A. D. 1860, the defendant, Edward McDonald Reynolds, procured apartments to be provided at the house No. 37 Hicks street, in the city of Brooklyn, in this State, for one Emma Foster, who occupied the same, and lived there as the kept mistress of the said Reynolds; and that at the said house, 37 Hicks street, the said Reynolds, at various times during the same period, committed adultery with the said Emma Foster, and that the said Reynolds has also at other times and places committed adultery with the said Emma Foster.

I do further report that said adultery was committed without the consent, connivance, privity, or procurement of the plaintiff; that five years have not elapsed since her discovery thereof, and that she has not voluntarily cohabited with the defendant since such discovery.

All of which is respectfully submitted.

B LEFFINGWELL, *Referee.*

NEW YORK, *March* 28, 1860.

SUPREME COURT.

CATHARINE V. N. REYNOLDS
against
E. MCDONALD REYNOLDS.

NEW YORK, *March* 20, 1860.

John Sherwood, for plaintiff; C. D. Newman, for defendant; both present.

James Bleecker: live in the city of New York; am member of the firm of N. T. Bleecker & Co.; knew both the parties to this suit; Mrs. Reynolds is my first cousin; her name was Miss Tinsler before her marriage; was a daughter to Dr. Benjamin R. Tinsler, of the navy; knew of the marriage of plaintiff and defendant; I was present at their marriage; it took place at Charlestown, Massachusetts; it was in the fall of 1851; I think they were married by the Reverend Thomas R. Lambert; he was chaplain at the navy yard; Mr. Rey-

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nolds is a lieutenant in the marine corps of the United States navy; he has been stationed at the Brooklyn navy yard, and at the Charlestown navy yard, also at sea; he is now stationed at the Brooklyn navy yard; Mrs. Reynolds now lives in Brooklyn, in Concord street; Mr. Reynolds was stationed at the navy yard in Charlestown, Massachusetts, in the summer of last year. While Mr. Reynolds was at sea, Mrs. Reynolds resided, I think, a portion of the time, with her mother at Charlestown, Massachusetts.

JAMES BLEECKER.

Sworn to and subscribed before me, March 20, 1860.

B. LEFFINGWELL, *Referee.*

Clara Hitchcock sworn:

Reside at Brooklyn at the same house with Mrs. Reynolds; I am first cousin of Mr. Reynolds; Mr. and Mrs. Reynolds came to Brooklyn from Charlestown, Massachusetts, last fall; they lived in Brooklyn last spring, before they went to Boston, at the same place where Mrs. Reynolds now resides.

CLARA HITCHCOCK.

Subscribed and sworn to before me, March 20, 1860.

B. LEFFINGWELL, *Referee.*

Charles A. Gisborne sworn:

I am a merchant; do business in the city of New York; reside in Brooklyn, at No. 47 Concord street; reside there; Mr. and Mrs. Reynolds boarded at that house; am well acquainted with both parties; have been here three years; know Mr. Reynolds quite intimately; I went with Mr. Reynolds, the latter part of October, 1859, (the 28th of October, I think,) to the 27th street depot, to await the arrival of the cars from Boston. He had told me the object of going there before we went; he said it was to meet a girl there; we went and waited till the cars came in; by the last car the girl he expected came; he received her on the platform; he kissed her and shook hands with her; after that I left them; I saw this girl again about a week after at No. 37 Hicks street, in Brooklyn; she was occupying a room there, which I understood was engaged there for her by Mr. Reynolds; I went there with Mr. Reynolds, at his invitation, to see her; it was between 7 and 8 o'clock in the evening; I found her in the room; he introduced me to her as his friend; he addressed her as "Emma;" after we had been there a little while she sat on his knee; she kissed him several times; she called him "Eddy;" he called her "dear" and other familiar expressions; there was conversation about the furniture in the room; he asked her if she was comfortable, she said she was; he entered the house and room without announcement; she acted in a loving manner towards him, such as laying her head down upon his shoulder and kissing him; she was a small woman, below the medium size; I noticed a slight cast in one eye; she was the same woman I saw at the cars; I should say about 20 years old; occasionally she appeared to have a slight lisp; she appeared to have quite a simple manner; I understood from him that he hired the rooms for her; that they were already furnished.

Judging from this woman's manner, language, and general demeanor, I should judge her to be of the better class of serving girls. Judging from her manner towards him, and his manner towards her, I judged that she was his mistress.

This woman apparently occupied these premises permanently as her room; it was on the third floor; it was furnished with one easy chair, a bed, a small stove. Mr. Reynolds is tall and slim; wears moustaches, and looks like a military man; is 6 feet 2; a large head of hair; a military carriage.

CHARLES A. GISBORNE.

Subscribed and sworn to before me, March 20, 1860.

B. LEFFINGWELL, *Referee.*

Adjourned to 22d, at 3½.

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REYNOLDS
vs.
REYNOLDS.

MARCH 22, 1860.

John M. Van Syckel sworn: live at 37 Hicks street in Brooklyn; am a butcher; my house is at 37 Hicks street. Have rooms to let there, and had last fall and last winter; know a gentleman, whom I know by the name of Foster. I heard he was a lieutenant in the navy and stationed at the navy yard. He is a tall man, quite a tall man; sometimes he had a large moustache; I don't know whether they were false or not, but they grew very fast.

He came to my house and spoke for a room for a woman. It was about October, 1859; she remained there three months; she came there alone; she came there first, and her things came there afterwards by express. This was after he had engaged the room for her. It was the front room on the third floor, my shop being on the first or ground floor, my family on the second floor, and the room occupied by this girl on the third floor front; it was a furnished room and let as such. She went by the name of Mrs. Foster; she was always spoken of as Mrs. Foster; she was a small low-sized girl; in one of her eyes a little cast; she would sometimes speak in a girlish way; about twenty-odd years of age.

The man who hired the room for her came sometimes every day, sometimes not for three days. He generally came in the daytime. He went right up to her room. I supposed he was her husband when he first came there; he always went to her room; that was his business there; he went to see her; this was kept up during the whole time that she was there.

She did nothing except her own work; she went over a time to assist on a sewing machine.

Have seen him in her room frequently. Have seen him sitting in the room.

She must have left about the 20th of January, 1860. She remained in the room all that time. He was there the same day she left; she left to go to Boston. I believe he said she was coming from Boston when she came.

She has been back once or twice since she left. When she first came to stay, most all her things were had at my place. He has never been there since.

She always called him Eddy. She would come down stairs and say "My Eddy has gone."

Sometimes he would stay half a day, and sometimes he would stay but a short time.

She came there towards the last of October, 1859, and remained until about the last of January, 1860. Sometimes she called him her husband; most of the time Eddy.

JOHN M. VAN SYCKEL.

Subscribed and sworn to before me March 23, 1860.

B. LEFFINGWELL, *Referee.*

Adjourned to March 27, at 2 p. m.

NEW YORK SUPREME COURT.

CATHARINE V. N. REYNOLDS
against
EDWARD MCDONALD REYNOLDS.

City and County of New York, ss:

Richard P. H. Durkee, of the city of New York, being duly sworn as a witness in this cause, pursuant to the annexed consent, deposes and says, that he

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resides at number 22 St. Mark's Place, in the city of New York, and that he is twenty-one years of age; that his health is not good, and that in bad weather he cannot go out at all.

Q. Do you know the defendant, Edward McDonald Reynolds?

A. I do. He is an officer in the marine corps of the navy of the United States. I became acquainted with him in Charlestown, Massachusetts, at the navy yard at that place, in the month of September, 1859. I dined with him at the house of Mr. Stevenson, the brother-in-law of the plaintiff, Mrs. Reynolds, on or about the 18th day of September, 1859; that, on the evening of the same day, and at about 9 o'clock that night, with another gentlemen, the defendant, Reynolds, and I went to a house in a street in the city of Boston, the name of which street I do not now remember or the number of the house. I am not and was not familiar with the streets of Boston, having never been there before. That there were four women in the house, and that Mr. Reynolds introduced them to the witness, and from what he said to one of them in my presence, and to all of us, I judged her to be his mistress. I believed at the time, and now believe, it was a house of prostitution. The woman to whom I was introduced by said Reynolds, particularly, was a small woman, spare frame, cross-eyed, and very simple and childish in her mode of talking. He told me her name, but I have forgotten it now. The other gentleman with us, and Mr. Reynolds, left the house for a short time, saying they were going to get another woman; that they returned in almost three-quarters of an hour with a third woman, who was spoken of as the mistress of the other gentleman; that before her arrival there were three women in the house, and afterwards, including her, four; that, to the best of my recollection and belief, Reynolds retired with the woman I have before particularly spoken of, and went up stairs with her, and remained a few minutes. I remained at the house about two hours, and then went up to my hotel, the Revere House. Reynolds, and the other gentleman of whom I have spoken, remained at the house with the women; I left them, I think, standing in the parlor of the house. I knew, before I went into the house, from the conversation of said Reynolds and the other gentleman in his presence, the characters whom we expected to see there; that the women were women of loose character.

R. P. H. DURKEE.

Sworn to before me this 16th day of March, 1860.

HENRY E. HOWLAND,
Notary Public for the City and County of New York.

Produced and used in evidence before me March 22, 1860.

B. LEFFINGWELL, *Referee.*

NEW YORK SUPREME COURT.

CATHARINE V. N. REYNOLDS
against
EDWARD MCDONALD REYNOLDS.

It is hereby consented that R. P. H. Durkee may be examined as a witness de bene esse in this cause in behalf of the plaintiff, at the office of John Sherwood, the plaintiff's attorney, No. 104 Broadway, New York, on the 16th day of March, instant, at 12 m. of that day, and that his testimony, proven before a notary public, may be read upon the trial with the like effect as if taken under

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and pursuant to a judge's order, and that said testimony was not to be filed, but may remain in possession of the plaintiff's attorney.

CLEMENT D. NEWMAN,
Attorney for Defendant.
JOHN SHERWOOD,
Attorney for Plaintiff.

NEW YORK, *March* 16, 1860.

Indorsed:
Produced and read in evidence before me March 23, 1860.
B. LEFFINGWELL, *Referee.*

NEW YORK SUPREME COURT.

CATHARINE V. N. REYNOLDS
against
EDWARD MCDONALD REYNOLDS.

MARCH 27, 1860.

Catharine Van Syckel, a witness produced on behalf of the plaintiff, says: I reside at No. 37 Hicks street, in the city of Brooklyn. I am the wife of John Van Syckel. We have furnished rooms to let, and did have rooms to let last year. Mr. Reynolds came to our house and applied for rooms for a woman a day or so before she came. He was a tall, military-looking man, wearing a moustache. I have since understood that he was an officer in the navy. I think the woman, who was called Mrs. Foster, Emma Foster, came there about the month of November, about the first of the month. He brought her to my house in the evening. The room was not ready then. They came the following day, and her baggage came a little after. She remained about three months in the room; she occupied the third story front room. I saw Mr. Reynolds very often going up and down to her room. She called him "Eddy." I went into her room, and when I saw him there I went away pretty soon. He came there pretty often. He came there every day and sometimes twice a day, except some few days when he might be absent. This was continued during the whole time she was there. Before she went away I knew that she was his mistress. I did not know it at first, but discovered it, and was very glad to have her go away. She was a very small woman; I should say at least twenty years of age. She had a slight cast in one of her eyes. She had a simple way of talking, and had rather a green way of speaking. She did nothing while she was there. I heard something about her getting a sewing machine; I heard her say she was going to get one. I think Mr. Reynolds was there on New Year's day. I understood she came from Boston, and returned there, and afterwards she came back, and I have seen her since. Mr. Reynolds had free access to her room at all times, and went in without being announced. The room was fitted as a nice room, with the ordinary furniture, a bed and other furniture. It may be Christmas day that I remember of his being there instead of New Year's. In fact, he was there so often I didn't remark the day in particular. I should judge from her conversation and manners that she was a factory girl or sewing girl, who labored. She had the appearance of not being brought up as a lady.

MRS. CATHARINE VAN SYCKEL.

Subscribed and sworn before me March 27, 1860.
B. LEFFINGWELL, *Referee.*

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SUPREME COURT.

CATHARINE V. N. REYNOLDS
against
EDWARD MCDONALD REYNOLDS.

I hereby waive notice of application for the confirmation of the referee's report, and for the judgment of service in this cause.

C. D. NEWMAN,
Attorney for Defendant.

NEW YORK, *March* 31, 1860.

NEW YORK SUPREME COURT.

CATHARINE V. N. REYNOLDS
against
EDWARD MCDONALD REYNOLDS.

At a special term held at the City Hall, in the city of New York, on the 17th day of April, 1860.

Present, Hon. Josiah Sutherland, justice.

This cause having been brought on to be heard upon the complaint filed therein, taken as confessed by the defendant, no answer or demurrer having been received, and upon the report of Benajah Leffingwell, esq., the referee appointed by this court on the 15th day of March, 1860, to take proof of all the material facts charged in the complaint, and to report thereon; and from which report it appears that all the material facts charged in the said complaint are true, and that the defendant, Edward McDonald Reynolds, has been guilty of the several acts of adultery therein charged; and, on reading and filing the report of Philo T. Ruggles, esq, the referee appointed by this court herein, by an order dated the 29th day of March, 1860, to report as to the proper sum or allowance to be made to the plaintiff herein, as alimony; and to report the evidence and his opinion thereon; by which report it appears that the defendant, in the opinion of the said referee, should pay to the plaintiff, yearly, the sum of eight hundred dollars, by way of alimony, and that such payment should be in equal monthly payments.

Now, on motion of John Sherwood, counsel for said plaintiff, Mr. C. D. Newman appearing for the defendant, it is adjudged and decreed, and this court, by virtue of the power and authority therein vested, and in pursuance of the statute in such case made and provided, doth adjudge and decree that the marriage between the said plaintiff, Catharine V. N. Reynolds, and the said defendant, Edward McDonald Reynolds, be dissolved, and the same is hereby dissolved accordingly; and the said parties are, and each of them is, freed from the obligations thereof; and it is further adjudged and decreed that it shall be lawful for the said plaintiff, Catharine V. N. Reynolds, to marry again in the lifetime of the defendant, in the same manner as though the said Edward McDonald Reynolds was actually dead; but it shall not be lawful for the said defendant, Edward McDonald Reynolds, to marry again until the said plaintiff, Catharine V. N. Reynolds, is actually dead. And it is further adjudged and decreed that the said defendant. Edward McDonald Reynolds, shall pay to the said plaintiff, Catharine V. N. Reynolds, or to her legally authorized agent or attorney, yearly, the sum of eight hundred dollars, commencing the first of April, 1860, by way of alimony; that the said sum shall be paid to the said plaintiff, Catharine V. N. Reynolds, by the said defendant, Edward McDonald Reynolds, in equal monthly payments, viz: the sum of sixty-six dollars and sixty-six cents, to be paid on or before the fifth day of each and every month.

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LETTER

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING

An estimate of appropriations for the Chippewas of the Mississippi.

MARCH 21, 1867.—Laid on the table and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., March 21, 1867.

SIR: I have the honor to transmit herewith an "estimate of appropriations necessary to fulfil stipulations of treaty with Chippewas of the Mississippi," concluded on the 19th of March, 1867, and commend the subject to the favorable consideration of Congress. The amount asked for is $56,500.

Very respectfully, your obedient servant,

O. H. BROWNING, *Secretary.*

Hon. B. F. WADE,
President of the Senate.

Estimate of appropriations necessary to fulfil stipulations of treaty with Chippewas of the Mississippi, concluded March 19, 1867.

Article 3. For school buildings	$5,000
First instalment for the support of schools	4,000
For mill	10,000
For purchase of stock, implements, &c	5,000
For assistance in building houses	5,000
First instalment for agricultural purposes	6,000
First instalment for physician and medicines	1,500
For provisions, clothing, &c	10,000
Article 6. For expenses of negotiating treaty	10,000
	56,500

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LETTER

OF

THE SECRETARY OF THE TREASURY,

COMMUNICATING,

In compliance with a resolution of the Senate of the 23d instant, information relative to a proposed change in the mint laws of the United States upon the subject of the refining of gold and silver.

MARCH 26, 1867.—Read, referred to the Committee on Finance and ordered to be printed, and that 500 additional copies be printed for the use of the Treasury Department.

TREASURY DEPARTMENT, *March* 25, 1867.

SIR: I have the honor to acknowledge the receipt of a resolution of the Senate under date of the 23d instant, requesting the Secretary of the Treasury to communicate to the Senate any information he may have relative to a proposed change in the mint laws of the United States upon the subject of the refining of gold and silver, and public policies incident thereto.

The act supplementary to the act establishing a mint and regulating the coins of the United States was passed more than thirty years ago, and the suggestion of a revision of the mint laws is well worthy of consideration, there being many particulars in which the existing laws are not adapted to the requirements of commerce and the great increase in the production of bullion. Many amendments have recently been proposed, among which are propositions for the mint to relinquish the refining of gold and silver, and leave that business wholly to private enterprise, and the repeal of the coinage charge.

Without expressing any opinion upon these subjects at the present time, I transmit herewith, for the information of the Senate, a very interesting communication which has recently been received from Louis A. Garnett, esq., of San Francisco, who was formerly an officer of the branch mint in that city, and is now connected with a very extensive silver refinery, which communication was prepared at the suggestion of John Jay Knox of this department during his late visit in California upon official business, and is addressed to him.

I am, very respectfully, your obedient servant,

H. McCULLOCH,
Secretary of the Treasury.

Hon. B. F. WADE,
President pro tempore Senate of the United States.

SAN FRANCISCO, *November* 13, 1866.

DEAR SIR: In compliance with your request I hereby submit to you in writing a statement of such facts connected with our mining and minting operations as, in my opinion, are necessary to a clear understanding of the important interests to which they are germain, and without which no intelligent action can be taken.

I may be permitted to refer to the recent instructions of the Secretary of the

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Treasury to Mr. J. Ross Browne, the special agent of the department, as embodying succinctly the whole field of inquiry upon these important subjects. The Secretary justly observes that "whatever tends to develop the vast resources of our new States and Territories must add to the wealth of the whole country;" and he desires Mr. Browne to ascertain "what financial facilities may tend to develop the country and enhance its products."

Having yourself visited several of our mining districts, it will be only necessary to refer to your own sources of information upon many points of inquiry connected with these subjects.

As an indication of the magnitude of our mining interests, I will here merely premise that it would be an underestimate to say that the mines of this State, and the adjacent Territories which are tributary to it, have for the past seventeen years produced an average of $60,000,000 per annum, or an aggregate of $1,000,000,000. And yet so unremunerative are mining operations as a whole, that it would be difficult to-day to find in this State one man for each $100,000,000 produced who has grown rich by working the mines. There is no subject upon which there exists such widely diffused error in the public mind as this; and perhaps there can be no more overwhelming refutation of the fallacy of these impressions than the simple statement of the fact, which is within the knowledge of every one having any personal acquaintance with the history of our mining operations. In early days, when the bars and beds of our mountain streams glittered with gold, and our surface diggings offered rich rewards to individual labor, there were, doubtless, many who reaped golden harvests with but little labor and no capital. But these have long since been exhausted, and mining now can only be carried on successfully by a combination of labor and abundant capital. Indeed, mining here is not essentially different from what it has always proven the world over—a fascinating illusion, in which the exceptional instances of success seem alone to be remembered, and to supply the incentive which still lures on its votaries, regardless of the overwhelming preponderance of the disastrous experience of others. And yet, while it involves nine out of ten in heavy pecuniary loss, if not absolute ruin, its result and effect is to "enhance the product" and "add to the wealth of the whole country."

The development, therefore, of this important element of national wealth should receive every encouragement at the hands of the government, rather than be repressed by a system of taxation, which practically amounts to the taxing the privilege of a man's spending his own money for the public good. However, many of the evils under which this important interest has heretofore labored will doubtless be remedied by the mineral land law of last Congress. There still exists the high mint charges and the internal revenue tax of one-half of one per cent., which resulted from the various propositions to tax our mines. From the discussions in Congress, this tax seems to have originated in the idea that individuals were reaping private fortunes from the public domain without any return. Apart from what I have already said upon this subject, you can judge yourself how much foundation there is for this belief. But what I more particularly desire to draw your attention to is, its unjust application to foreign mines as well as domestic, the effect being to repel the products of Mexico and British Columbia, and force them into other channels. This is the result of making assayers the commissioners for the collection of the tax, and compelling them to collect it upon all bullion which they assay. It seems to me that if this matter was properly represented to the Commissioner of the Internal Revenue, he would at once authorize assayers and refiners, upon proper evidence of the foreign origin of bullion being produced to them, to stamp it as such, instead of imposing upon it a tax which was clearly never intended.

In reply, therefore, to the inquiry of the Secretary, "What financial facilities may tend to the development of the country and enhance its products?" I should unhesitatingly reply, a complete abrogation of all taxes and restrictions upon mining enterprises and a radical change in our whole system of mining laws.

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If it be true that gold alone is the true measure of value, and that the metallic wealth of a country is the only safeguard to national and individual credit or solvency in periods of financial disturbance, it would seem to follow as a very simple principle of political economy that all legislation upon such a subject should be directed to the encouragement of its importation from abroad and the retention in circulation of our own production, or as the representative of other mediums of exchange, and into which they are at all times convertible. Yet, strange as it may appear, all of our legislation upon this important subject has a directly opposite tendency. By imposing high mint charges upon the recoinage of foreign currency and exorbitant refining and revenue charges upon foreign and domestic bullion, it deters the one from seeking our markets and compels our own to seek the cheaper markets of other nations, or, rather, where the smaller charges make its commercial value greater than its minting value at home.

While this subject has been engaging the attention of the first statesmen of Europe for the last three hundred years, and they have been constantly modifying their laws upon the subject and adapting them to the changes in domestic and international commerce, it has been almost entirely neglected by our government. About the only thing it has done since the discovery of gold in this State, and the magnitude and importance which the subject thereby acquired, was to pass the act of March 4, 1863, looking to the exclusion of refining from the mint, and making the retrograde movement of creating, in addition to other deductions, a coinage charge, by the acts of February 21 and March 3, 1853.

The practical result of all this is very apparent. These mint and revenue charges now amount to about $1\frac{3}{4}$ per cent. on gold deposits and $2\frac{1}{2}$ per cent. on silver. By collecting these charges directly from the owner of the bullion, as a deduction from its value, the minting or net coining value per ounce of our bullion is reduced considerably below its commercial value, which is governed by the foreign markets, where no such tax or extortionate rate exists, and where minting expenses are defrayed from the public treasury, or by some special tax upon some article of general consumption, and not by a deduction from the value of the bullion.

The theory is a perfectly just one. The making of money is a necessity of government and a benefit to the entire community, and its expense should be borne by them equally, and not solely by the few who produced the material which enables the government to supply its own prime necessities. There is no more justice in doing so than there would be to charge the manufacturer who with his own capital and labor produces the parchment or paper of which your currency is made with the cost of engraving, printing, and other expenses of converting it into money. It is immaterial to the government how the expenses of its mints are defrayed, so it is done, yet it is very apparent that the particular mode by which it is done may lead to the most important results, for it cannot be denied that by raising the minting value of our bullion at home we not only retain a much larger portion of it in circulation, but we at the same time attract the products of foreign mines, for the same reasons that ours now goes abroad. The policy, therefore, of trying to make our mints self-supporting at the expense of the mining interests only has not only been a signal failure as a public measure, but is not sustained by the usages of any other nation, and is opposed to every just principle of political economy. The remedy is apparent and easy. The annual expenses of our mints are a mere bagatelle in the general disbursements of the government, and it could well afford to throw them entirely upon the general treasury without its being felt. They are now principally owing to the fact that, while other governments have long since restricted their mints to the more legitimate operations of coining money only, our government still adheres to the expensive practice of also refining the gold and silver necessary for this purpose. And while these charges are very high

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and operate as a very oppressive tax upon the miner, they altogether fail to cover the cost. This is, however, in a great measure owing to the fact that our mint officials have always exercised an authority in this particular matter that the law does not seem to sanction. It is very clear and mandatory upon the point, and says positively that the charge shall cover the cost, including material, labor, wastage, &c., and the authority which it subsequently gives to change these charges from time to time clearly means such changes only as are necessary to make these charges conform to the changes which from time to time may take place in the cost of material, labor, &c.

Acting on their own interpretation of the law, they have adopted a tariff of charges quite as remarkable as their construction of the law itself, and have made their charges in an inverse ratio to the cost. This not only makes it necessary for the government to make large appropriations every year to cover the deficiency, but establishes an unjust tariff, to which private refiners must conform, while it is clearly the desire of the government that they should be encouraged, so as to relieve it entirely of this expensive operation. I have no doubt that, upon examination, the appropriations which the government makes annually to cover the deficiencies of the mints, growing out of their refining operations, will be found to exceed what it makes from its coinage charges; and, hence, could they get rid of the cost of refining, they could readily forego the small profit they make from coinage, and be better off for doing so, while they, at the same time, relieve the mining interests of the country from the oppressive tax. Again, by the mint's not making any difference between deposits of refined and unrefined bullion in the time of payment, the private refiner is not only compelled to conform to the unjust tariff of the mint, but his bullion, after it is refined, is used by the government to pay depositors whose gold is not refined for several days subsequent, and all because the law simply says that deposits shall be paid in the order in which they are made. To accomplish all that the government desires, the private refiners only want common justice, and they will soon so far outstrip the government in the advantages they will offer the miner as soon to relieve it entirely of the expense of refining. The government uses the tedious and expensive process of refining by nitric acid, (which alone can be used in the heart of the city,) while private refiners employ the more expeditious and economical process of sulphuric acid.

There are a number of ways in which the government can aid and facilitate the consummation of this end if it so desires. The one which seems to me best adapted to this country, where the people are so deeply interested in the efficiency of the mint, and are so jealous of everything touching their peculiar interests, would be to have Congress give to the Secretary of the Treasury authority to contract with private refiners for an exchange of the crude bullion deposited at the mint for bullion fit for coinage or for gold coin, less such charges as might be agreed upon. This course has the advantage of relieving the government of all risk on the one hand, while it secures to the miner the benefit of the government assay and the government responsibility. When this is once accomplished the coining value of our bullion would at once become greater than its commercial value, and the result would be that the entire produce of our moneys would be coined at home, and here, at least, we would be relieved of those constantly recurring periods of stringency in the money matters growing out of the demand for, and shipment abroad of, our bullion.

During your sojourn here you doubtless learnt enough of our peculiar system of exchange with the interior to understand that while the coinage of about $20,000,000 per annum seems to answer all of our wants as a circulating medium, yet nearly our entire product is made to answer the purpose of coin, being remitted from the interior in payment of merchandise sold by our merchants.

It is clear to my mind that if the government would repeal the coinage and internal revenue tax upon all bullion, and give such encouragement to private

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refiners as would secure to the owners of the bullion the benefits of their more moderate charges, the results which would accrue to the country in the reduction of the price of gold, and the consequent advance in our national securities, would much more than compensate for loss of revenue now arising from those sources.

In connection with this subject it has occurred to me that if the government does not deem it expedient to throw the expenses of its mints upon the general treasury, a tax might be imposed upon bills of exchange, drawn against shipments of specie or bullion, that would answer all the purposes of the coinage and revenue charges now made, and at the same time serve the further purpose of raising the coining value of our bullion at home, as I have before observed, and likewise impose an additional obstacle to its shipment abroad; and all tending to the enablement of our government to return to a specie basis at an early day.

The difficulties of treating these important subjects within the limits of a hurried letter must at once become apparent to you, and I have therefore not attempted to do more than give you a general outline, with a few of the more important facts and considerations appertaining to the subject.

If the suggestion which I have thrown out was adopted, and the mints were allowed to exchange crude bullion for bullion fit for coinage, they would at once be relieved of the expense and necessity of refining; but if it be deemed best to bring about that result by degrees, it would perhaps be best accomplished by giving such a preference to the bullion refined by private enterprise as would make it to the advantage of the depositor to patronize such establishments, and it would, in my opinion, be better to relieve such bullion of the coinage charge than it would to limit the amount to be received by the mint, as now provided by law.

Very respectfully, your obedient servant,

LOUIS A. GARNETT.

JOHN JAY KNOX, Esq.,
Treasury Department, Washington, D. C.

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40TH CONGRESS, 1st Session. | SENATE. | Ex. Doc. No. 12.

LETTER

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING

A copy of a report of the Commissioner of Indian Affairs, submitting an estimate of appropriation required to supply a deficiency in the appropriation for the relief of the Navajo Indians now at or near Fort Sumner, for the year ending June 30, 1868.

JULY 13, 1867.—Read and referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., July 13, 1867.

SIR: I have the honor to transmit to the Senate herewith a copy of a report of the 10th instant, from the Commissioner of Indian Affairs, submitting an "Estimate of appropriation required to supply a deficiency in the appropriation for the relief of the Navajo Indians now at or near Fort Sumner, for the fiscal year ending June 30, 1868," to which the favorable consideration of Congress is respectfully invited. The amount asked for is $304,320.

Very respectfully, your obedient servant,

W. T. OTTO,
Acting Secretary.

Hon. BENJAMIN F. WADE,
President United States Senate.

DEPARTMENT OF THE INTERIOR, OFFICE INDIAN AFFAIRS,
Washington, D. C., July 10, 1867.

SIR: Referring to office reports of the 25th of May last and 28th ultimo, relative to the Navajo Indians on the Bosque Redondo reservation in New Mexico, about to be transferred to this department, and to your response to the letter, approving my action in regard to feeding these Indians under the contract submitted with said report of the 28th, I would respectfully say that, in view of all the circumstances connected with this case, and the fact that the sum appropriated by the last Congress is not sufficient to purchase subsistence to feed the said Indians for a longer time than three months, I deem it of the utmost importance that the attention of Congress be invited to the matter at its present session, in order that the necessary steps may be taken to have the Indians in question taken care of after the $100,000 appropriated by the last Congress has been expended.

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As stated in office report of the 25th of May last, the cost to the government for feeding these Indians under the management of the War Department has amounted to not far from $1,500,000 annually, including the first cost of the subsistence and the transportation of the same to the reservation. Taking the first cost of the subsistence furnished by the War Department as a basis, and the cost to the government for each ration furnished to the Indians on said reservation has been from twenty-four to twenty-nine cents. The contract with Mr. Simerly stipulates that rations of beef, flour, and salt shall be furnished at a cost of nineteen cents each; this would make a difference of at least five cents on each ration in favor of the present arrangement, without taking into consideration the cost of transportation under the War Department, and taking as a basis the whole number of Indians to be fed to be 7,000, the difference for a full year would be $127,750.

Assuming that there will be 7,000 of these Indians to be subsisted and cared for the present fiscal year, and that the department commences to feed them on the 1st of September next, and continues to feed them to the end of the present fiscal year, at a cost of 19 cents per ration, as under the contract with Mr. Simerly, it will cost the government $404,320. The sum of $100,000 has been appropriated for the purpose, but, as will be seen, this sum is totally inadequate for the purpose, and it will require at least a further sum of $304,320 to feed and properly care for said Indians during the fiscal year ending June 30, 1868.

This matter has been brought to the notice of the department and of Congress so often that I do not consider it necessary or advisable, at the present time, to make a lengthy report on the subject. The fact that, in order to keep these Indians on the reservation, and thus prevent them from scattering through the whole territory to rob and steal for an existence, they must be fed and provided for until such time as they are able to subsist themselves by their farming operations, must be apparent to all; and I am of the opinion that if the attention of Congress be again invited to the matter, such steps will be taken for the care of said Indians as, in its wisdom, may be considered just and proper.

I therefore submit herewith an estimate for $304,320 to supply a deficiency in the appropriation made by the 39th Congress for the relief of the Navajo Indians, now at or near Fort Sumner, and respectfully request that the same, with such favorable recommendation as you may deem proper, be transmitted to the President of the Senate and Speaker of the House of Representatives for the action of Congress.

Very respectfully, your obedient servant,

N. G. TAYLOR, *Commissioner.*

Hon. W. T. OTTO,
Acting Secretary of the Interior.

Estimate of appropriation required to supply a deficiency in the appropriation for the relief of the Navajo Indians now at or near Fort Sumner for the fiscal year ending June 30, 1868.

For this amount, or so much thereof as may be necessary, to supply a deficiency in the appropriation for the relief of the Navajo Indians now at or near Fort Sumner, in New Mexico, to be expended under the direction of the Secretary of the Interior, for the fiscal year ending June 30, 1867, $304,320.

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40TH CONGRESS, 1st Session. } SENATE. { EX. DOC. No. 13.

LETTER

OF

THE SECRETARY OF THE INTERIOR,

COMMUNICATING,

In compliance with a resolution of the Senate of the 8th instant, information touching the origin and progress of Indian hostilities on the frontier.

JULY 13, 1867.—Read, referred to the Committee on Indian Affairs, and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., July 13, 1867.

SIR: In compliance with a resolution of the Senate of the 8th instant, calling for reports made to this department by commissioners heretofore appointed, or by superintendents or agents of Indian tribes, together with any other authentic and reliable information in its possession touching the origin and progress of existing Indian hostilities on the frontier, &c., I have the honor to transmit herewith a report of the Commissioner of Indian Affairs, dated the 12th instant, with accompanying printed reports:

Reports of Generals Buford and Sanborn, marked A and B, and copies of reports, letters, and telegrams, numbered 1 to 45, inclusive, referred to in said report of the Commissioner of Indian Affairs.

Very respectfully, your obedient servant,

W. T. OTTO, *Acting Secretary.*

Hon. BENJ. F. WADE,
President of the United States Senate.

DEPARTMENT OF THE INTERIOR,
Office Indian Affairs, July 12, 1867.

SIR: I have the honor to acknowledge the receipt, by reference from your department, of Senate resolution of the 8th instant, calling upon the Secretary of the Interior to communicate to the Senate any reports made to his department by commissioners heretofore appointed, or by superintendents or agents of Indian tribes, together with any other authentic and reliable information in his possession touching the origin and progress of the existing Indian hostilities on the frontier; also to communicate, as far as he can, the extent of the disaffection among the Indian tribes, whether they are waging war as tribes or as individuals, and if as individuals, what disposition has been or is likely to be made of the friendly Indians formerly belonging to the hostile bands; and that he make such suggestions as in his judgment will lead to the most speedy termination of pending hostilities and prevent Indian wars in the future.

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In compliance with your instructions to report all the facts in regard to these difficulties now in possession of this office, with such suggestions and views as I may deem necessary and proper in the premises, I would respectfully invite your attention to the enclosed printed copy of the reports of the Secretaries of War and Interior relative to the Fort Phil. Kearney massacre, which, it is thought, will show the cause of the commencement of the present hostilities, or at least of those at or near said fort, where hostile demonstrations by any considerable force was first made by the Indians. The views in regard to the visit of the Indians who made these demonstrations which resulted in the massacre of our troops, expressed by my predecessor in his report of the 4th of February last, are not correct, as will be seen from the report of General Buford, one of the commissioners appointed by the President to visit the Indian country, (see copy herewith marked A,) and from General Sanborn's report, also herewith, B.

I also enclose copies of reports, letters, and telegrams received at this office since the reports of late Commissioner Bogy were made, as contained in said printed copy of reports. These papers, numbered from 1 to 45, inclusive, in the order of their dates, contain all the reliable information I have in regard to the matter since the 21st of February last.

A careful examination of these papers has led me to the following conclusions:

1st. That the tribes and parts of tribes involved in the war are the following, namely: As tribes, the Northern Cheyennes and Arapahoes, numbering about one hundred and eighty lodges—say 300 warriors; the Minneconjoux band of the Teton Sioux nation, 300 lodges, about 500 warriors; those of the Ogallallas band of Sioux, who would not consent to cede the right of way for the Montana road, via Powder river, and the right to plant military posts in their country, 130 lodges, about 250 warriors; those of the Brulé band of Sioux, who coincided with these Ogallallas in opposing the cession of the road and post privileges, some 150 lodges, about 300 warriors; those of the Two Kettle band of Sioux, entertaining the same views, about 150 lodges, and some 300 warriors, making, in all, about 1,600 to 1,800 effective warriors.

These were the Indians who perpetrated the Phil. Kearney massacre and who have been carrying on the war in the north.

On the plains further south the only Indians known to be making hostile demonstrations are the Southern Cheyennes and Arapahoes, numbering some 200 lodges, and about 500 warriors, with possibly a few individuals from other tribes.

I am led to the conclusion, secondly, that the causes of the war are easily traced and readily understood when a few facts are known. These facts I proceed to cull from the official records.

In December, 1864, occurred the horrible Sand Creek massacre of friendly Cheyennes and Arapahoes in Colorado Territory. Exasperated and maddened by this cold-blooded butchery of their women and children, disarmed warriors and old men, the remnant of these Indians sought the aid and protection of the Comanches and Kiowas, and obtained both. The combination which followed embraced all the tribes of the plains from the Red River of the South to the Red River of the North, and resulted in the general Indian war of 1865, which cost our people many valuable lives and $40,000,000 in money. Peace was concluded with all the southern Indians in October, 1865. Peace was likewise made with the Missouri river Indians late in the same autumn, and the Indians engaged in the recent hostilities gave notice that they also were willing to bury the tomahawk.

Commissioners were accordingly sent to treat with these Indians at Laramie in June, 1866. Unfortunately a new complication arose. The commissioners insisted that the Indians grant the United States the right of establishing mili-

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tary posts at the base of the Big Horn mountain, (now Fort Phil. Kearney,) and on the headwaters of the Yellowstone river, (now Fort C. F. Smith,) the only remaining reliable hunting grounds of these Indians. The Indians occupying the country in the vicinity of the proposed military posts refused to grant the required rights. While this matter was still under consideration a military command arrived on its way to plant these forts, and the Indians being informed that the posts were to be immediately established and garrisoned by these troops, with or without their consent, at once withdrew from the council, refusing to accept presents, and very soon went to war upon all the troops who attempted to pass over this road. Such was the origin of the war on the Montana road.

In April of the current year the Southern Cheyennes and Arapahoes were peacefully occupying their village on the grounds assigned to them as hunting grounds by the treaty of October, 1865, when a military command under Major General Hancock, without any known provocation, burned down their homes of 300 lodges, (including, perhaps, 100 lodges of friendly Sioux,) and all their provisions, clothing, utensils, and property of every description. In view of these facts, it is scarcely deemed necessary to seek further for reasons for the hostility of the Southern Cheyennes and Arapahoes.

While searching for the origin of our existing Indian war, I beg leave to insert here an extract from a letter of Lieutenant General Sherman, dated Fort Lyon, Colorado, September 30, 1866, forwarded to the Secretary of War by General Grant, and referred to this office:

"Craig (formerly a colonel or captain in the army, and owner of a large ranche on the Huerfano) may be taken as the best sample of the class of men who are settling along the east base of the mountains. He has thoroughly proven the ability to produce, but then comes the more difficult problem of consumption. Who is to buy his corn? The miners of Colorado, in the mountains, two hundred miles distant, will take some; but the cost of hauling is enormous. The few travellers and stage companies will buy a little, but he, and all situated like him, look to our military for a market, and that is the real pressure for garrisons and an Indian war. The Utes are harmless and peaceable, and the Cheyennes and Arapahoes are off after the buffaloes, God only knows where, and I don't see how we can make a decent excuse for an Indian war. I have travelled all the way from Laramie without a single soldier or escort. I meet single men, unarmed, travelling along the road, as in Missouri. Cattle and horses graze loose, far from their owners, most tempting to a starving Indian, and though the Indians might easily make a descent on these scattered ranches, yet they have not done so, and I see no external signs of a fear of such an event, though all the people are clamorous for military protection. I received at Puebla a petition to that effect, signed by so many names that I could not help answering that the names to the petition exceeded in number the strength of any of our small garrisons. Still, I do think that the efforts of these people to transform the desert into productive farms is worthy of encouragement of the general government, and I will treat of the subject again at length.

"After spending part of a day and the night at Craig's, I resumed the journey down the Huerfano twenty miles, to its mouth, there forded the Arkansas, and turned up five miles to the house of Colonel Boone, a man of note in this quarter. He has a good two-story frame house, with his family, embracing the wife of Colonel Elmer Otis, but she happened to be away on a visit to some neighbor, and I did not see her. Colonel Boone was at home, and I talked with him freely on the above and all other points of interest. He is an old Indian man, was on the plains with General Ashley as early as 1824, and has been more or less connected with the Indians ever since. He also made the treaty with the Cheyennes and Arapahoes in 1860. He cultivates a farm and lives, seemingly, as little apprehensive of danger from Indians as the rest of the people. After camping a night near his house, we turned down the Arkansas and

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travelled, in three days, one hundred miles to this post, Fort Lyon. I did not see or hear of an Indian the whole distance, though we passed through the whole length of the Cheyenne and Arapaho reservation."

The above letter is dated September 30, 1866. I learn from the papers herewith, particularly from General Sanborn's report of the 8th instant, thirdly, that a portion of our commission met representatives of all or nearly all the hostile bands of the north at Fort Laramie, as late as the 12th of June last, and went into council with them; that they professed a willingness to make peace, agreed to cease offensive war until autumn, with a view of making a satisfactory treaty in the interim, and I am informed by one of the commission now in Washington, namely, General Sanborn, that they are willing to stipulate, that the Montana road, with necessary military posts to protect it, may go through their country west of the Big Horn mountain, which would avoid their choice hunting-grounds. He is satisfied, also, that they will for a reasonable compensation agree, by treaty, to the present location of the road and posts. I conclude, fourth, that while the hostile bands are willing to make a lasting peace upon anything like equitable terms, and while the friendly Indians are exceedingly reluctant to go into war with the United States, yet a further and persistent disregard and violation of the natural rights of the Indians, and of the treaty obligations of the government towards them, such as have characterized our military operations among them for the past twelve months, will soon result in an Indian war of gigantic proportions, and of prolonged and indefinite duration, at an appalling expense of life, and at a cost of hundreds of millions of dollars. If we desire this result, if we want the war we have provoked enlarged and intensified till our whole frontier is in a blaze, till our infant Territories are isolated and besieged, and Pacific overland communication cut off, we have only to press a little further the policy we are now pursuing and we will get all we desire. From the facts before me I conclude, fifth, that we can have all we want from the Indians, and peace without war, if we so will, with entire security on all our frontiers, and in all our territorial domain, at a cost of less than two days' expenses of the existing war, to wit, a quarter of a million dollars, and in less than one hundred days. But how shall peace be so easily and so soon made? Simply by retracing our wrong steps and by doing right. Pay the northern Cheyennes and Arapahoes and the hostile Sioux for the trespass we have committed upon their recognized rights, and negotiate with them by fair treaty for the privileges of way and of military posts on their lands so far as we may need them. This is only doing them justice, as our established policy requires, and this makes them our friends at once, renders travel and transportation safe, and garrisons almost useless. Restore to the southern Cheyennes their village and their property we so wantonly and foolishly burned and destroyed, or pay them a fair price for them, and they will come back from the war path and resume the avocations of peace.

It is believed that the destruction by our forces of the Cheyenne village and property, valued at $100,000, in April last, has already cost the government more than $5,000,000 in money, one hundred lives of citizens and soldiers, and jeoparded all our material interests on the plains and along hundreds of miles of our frontier.

It will be seen among the papers herewith that Lieutenant General Sherman, in a despatch to the Secretary of War, dated Fort McPherson, Nebraska, June 17, 1867, among other things, says: "My opinion is if fifty Indians are allowed to remain between the Arkansas and Platte, we will have to guard every stage station, every train and all railroad working parties. In other words, fifty hostile Indians will checkmate three thousand soldiers." Now if this be true between the Arkansas and the Platte, of which region he is speaking, what a tremendous army will be required in the field if we conclude to precipitate a general Indian war, and to prosecute it to a successful result!

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In my judgment we have war, general, prolonged, bloody and ruinous, with all its accompanying barbarities and atrocities, and peace, speedy and durable, its concomitant, and consequent blessings, in our own hands and at our own option.

To make peace, it is (in my opinion) necessary, 1st. That that part of an act approved March 29, 1867, repealing "all laws allowing the President, the Secretary of the Interior, or the Commissioner of Indian Affairs, to enter into treaties with any Indian tribe," shall be repealed, otherwise there can be no binding agreement for peace made with the hostile Indians. 2d. That an appropriation should be made to defray all the necessary expenses to be incurred in making the desired treaties. 3d. That all military operations within the Indian country shall be subject to the direction and control of the Indian department. Supply these essential prerequisites, and I am firmly of the opinion that peace can be restored in a very short time.

In regard to the best means to secure and perpetuate peace between the Indians and our people, I beg leave to suggest, that it is essential to the perpetuation of peace with the Indians, 1st. That the government respect religiously, and protect by all means, their natural rights, as ascertained by our own highest judicial tribunal; and, 2d. That it observe strictly, and carry out faithfully, all its treaty obligations to them.

We have reached a point in our national history when, it seems to me, there are but two alternatives left us as to what shall be the future of the Indian, namely, swift extermination by the sword, and famine, or preservation by gradual concentration on territorial reserves, and civilization. Our present policy, or rather want of a policy, in this regard, is working out, and must result, if persisted in, in extermination. As now situated, the Indian tribes are in the way of our toiling and enterprising population, and unprotected they will soon be inevitably submerged and buried beneath its confluent surges. Possessing originally the continent, they roamed at will among its mountains, valleys, and broad plains, free and untrammelled, the proprietors and lords of them all. But rapidly our race has relieved them of their vast domain, and the remnants of the ancient red nations, encircled by the pressing millions of our people, maintain a precarious foothold on their last hunting-grounds. These millions will soon crush them out from the face of the earth, unless the humanity and Christian philanthropy of our enlightened statesmen shall interfere and rescue them. The sentiment of our people will not for a moment tolerate the idea of extermination.

In my judgment, the Indians can only be saved from extinction by consolidating them as rapidly as it can be peacefully done, on large reservations, from which all whites except government employés shall be excluded, and educating them intellectually and morally, and training them in the arts of civilization, so as to render them at the earliest practicable moment self-supporting, and at the proper time to clothe them with the rights and immunities of citizenship.

The path by which humanity has emerged from a condition of savage barbarity to its largest development has been through pastoral pursuits into agriculture and the arts, up to the highest sphere of mental refinement in the learned professions.

Entertaining these ideas, I beg leave to recommend that the government take such steps as may be deemed proper to set apart a territory, somewhere north of the northern line of Nebraska, and west of the Missouri river, of liberal dimensions, for the exclusive occupation and ultimate home of all the Indians north of the Platte, and of Iowa, and east of the summit of the Rocky mountains, and make appropriations at once to enable this department to make suitable preparations for such Indians as are now ready to enter upon pastoral and agricultural pursuits in said territory. To initiate this policy, if adopted, I ask an appropriation of one hundred thousand dollars.

That the policy indicated may be of universal application, I would respect-

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fully recommend that a large territory be set apart south of the southern line of Kansas, and west of Arkansas, including the present Indian territory, and the country known as the Stake Plains of Texas, and so much of New Mexico as may be necessary, for the exclusive occupation and ultimate home of all the Indians south of the Platte and east of Arizona. And for the inauguration of this plan in reference to said territory, and said Indians, I respectfully ask that an appropriation be made of one hundred thousand dollars.

I recommend that all necessary provisions be made by Congress to procure at once that portion of Texas, or so much thereof as may be necessary, lying between the western boundary of the Indian territory and the eastern boundary of New Mexico.

I would recommend that a commission be appointed to proceed to the Pacific coast and Arizona, to select one or more reservations of ample size, upon which to concentrate all the Indians west of the Rocky mountains, and for this object I ask an appropriation of twenty thousand dollars.

There are now concentrated on the Niobrara river, near the Platte river, under the chiefs Spotted Tail, Swift Bear, Two Strike, Big Mouth, and others, about 1,500 friendly Sioux, who have separated from the hostile bands. To this number will soon be added some 2,000 to 2,500 friendly Indians, now on their way from the hostile country. Pending hostilities, or until placed on reservations, and until they shall have raised a crop or two, these Indians will have to be subsisted by the government, or permitted to join their hostile kindred. To give them three-quarter rations will cost $300,000 per annum, and I recommend that this sum be appropriated by Congress at its present session, for their subsistence for the fiscal year ending the 30th of June, 1868.

The friendly Cheyennes, Araphoes, and Apaches, of the south, forced by General Hancock's command to abandon their hunting-grounds, set apart to them by the treaty of October, 1865, are now at or near Fort Cobb, in the Indian country, in a destitute condition, and numbering (with the Kiowas and Comanches) from 5,000 to 7,000 souls. These Indians, if not permitted to return to their own hunting-grounds, must either be fed by the government, or be driven to plundering the border inhabitants and war. I therefore ask an appropriation of $500,000, for the purpose of supplying these Indians, if found to be necessary.

I ask, also, an appropriation of one hundred thousand dollars to enable the department, if found expedient, to reimburse the southern Cheyennes and Arapahoes, and friendly Sioux, for their village and property destroyed by our troops in April last, with a view of restoring peaceful relations to them, and safety and security to life and property on the plains.

In conclusion, I take the liberty of stating to the honorable Secretary, for the information of the country, that the total cost of the Indian Bureau, in its extended field of operations, including all its expenditures, does not exceed $3,000,000 per annum.

Very respectfully, your obedient servant,

N. G. TAYLOR, *Commissioner.*

Hon. W. T. OTTO,
Acting Secretary of the Interior.

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MASSACRE AT FORT PHIL. KEARNEY.

Letter from the Secretary of the Interior, communicating, in obedience to a resolution of the Senate of the 30th of January, information in relation to the late massacre of United States troops by Indians at or near Fort Phil. Kearney, in Dakota Territory.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., February 5, 1867.

SIR: In obedience to a resolution of the Senate of the 30th ultimo, requesting the Secretary of War and Secretary of the Interior "to furnish to the Senate all official reports, papers, and other facts in possession of their respective departments which may tend to explain the origin, causes, and extent of the late massacre of United States troops by Indians at or near Fort Phil. Kearney, in Dakota Territory," I have the honor herewith to transmit a report of the Commissioner of Indian Affairs, dated the 4th instant, with accompanying papers—twelve in number—containing all the information now in possession of this department on the subject.

Very respectfully, your obedient servant,

O. H. BROWNING,
Secretary.

Hon. L. S. FOSTER,
President of the Senate.

DEPARTMENT OF THE INTERIOR,
Office Indian Affairs, February 4, 1867.

SIR: I have received from you the resolutions of the Senate and House of Representatives in relation to the recent outbreak at Fort Phil. Kearney. These resolutions contain three distinct propositions, to each of which a separate answer is necessary. It requires this department to furnish all the information in its possession in relation to the late massacre at Fort Phil. Kearney; secondly, the causes which produced the same; and thirdly, the causes which have led to the present alarming condition of our relations with the Indian tribes of the interior.

In answer to the first question, I will say that we had, prior to the occurrence of this disaster, very reliable information of the temper of the Indians in that section of the country; and although this temper did not amount to a positive hostility, yet I know from the various sources of information at the command of this bureau that there was a feeling of dissatisfaction growing out of the treaty of Fort Laramie of last summer. That the tribes occupying the Powder River country had great cause of dissatisfaction with the provisions of this treaty is not singular. From the extracts which I here furnish from the special report of Agent Chandler, (marked No. 1,) it will be easily understood why this dissatisfaction existed. Knowing that this feeling existed among these Indians, it was my intention to recommend the appointment, at an early day, of a commission of good men to visit their country and consult with the leading chiefs and headmen of these tribes and ascertain what their condition really and justly required. It seems to me to be unreasonable to require these people to abandon their hunting-grounds, while the chase is their only means of support, until some other means of existence is provided for them. That another means of support can be provided is beyond any doubt. The country is extensive enough to give them a home, and at the same time remove them from

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the highway of the travel of the whites. It is due, however, to the cause of truth to say that, however injudicious the provisions of this treaty are, most of the bands of Sioux Indians occupying that country were determined to abide by it, and I have positive information that these well-disposed Indians have faithfully adhered to this determination. Hence many of the chiefs of different bands, such as Spotted Tail, Swift Bear, One That Walks Under the Ground, and many others, have actually moved to the south side of the Platte, where they are at this time, to keep out of the way of any trouble. They are yet friendly. Another leading chief, by the name of Iron Shell, is with his band, in the Sand Hills north of the Platte, and friendly. With proper management these friendly-disposed bands can be used to the best advantage by the government, and I am anxious that nothing should occur to drive them from us. Although these bands are friendly, it is nevertheless but too true that it is more policy than anything else that makes them so. They feel as if they were unjustly treated, and this feeling is universal among them. From all the information I can get—and it is, I think, pretty reliable—none of these chiefs had anything to do with the affair at Fort Phil. Kearney. An order issued by General Cooke, at Omaha, on the 31st day of July last, (herewith sent, marked No. 32,) in relation to arms and ammunition, has had a very bad effect. I am satisfied that such orders are not only unwise, but really cruel, and therefore calculated to produce the very worst effect. Indians are men, and when hungry will, like us, resort to any means to obtain food; and as the chase is their only means of subsistence, if you deprive them of the power of procuring it, you certainly produce great dissatisfaction. If it were true that arms and ammunition could be accumulated by them to war against us, it certainly would be unwise to give it to them; but this is not the fact. No Indian will buy two guns. One he absolutely needs; and as he has no means of taking care of powder, he necessarily will take, when offered to him, but a very limited quantity. It is true that formerly they hunted with bows and arrows, killing buffalo, antelope, and deer with the same; but to hunt successfully with bow and arrows requires horses, and as the valleys of that country are now more or less filled with white men prospecting for gold and silver, their means of subsisting their horses have passed away, and they now have but few horses. I mention these facts so as to place before the country, as briefly as possible, the condition as well as the wants of the Indians.

I herewith send copies of two letters (marked 3 and 4) and my report on same (marked 4½) from the surgeon at the post of Phil. Kearney, giving an account of the first difficulty on the 6th of December, and of the last one, on the 21st of the same month. Although these letters are written by an officer at the post, with all his sympathies for his comrades, it is very evident, from a careful perusal and a just understanding of them, that these Indians did not come to that fort in any very great force, nor with a view of making war. To say that a wagon train was attacked by three hundred Indians, and yet no one killed, is simply ridiculous. There were, perhaps, some five or six men with this train, and if three hundred Indians had really attacked them, it is not doubted that one or more of them would have been killed. But the report was made of an attack by three hundred Indians; this led to a *sortie* from the fort; and even then, it appears, the Indians did not wish to fight, as they retreated, and no soldier was killed until several Indians had been dispatched by our soldiers. It seems that then some Indians hovered around the fort till the 21st, the day of the fatal disaster. To say that they came to the fort to challenge the force at that point to a fight is simply absurd. Nevertheless a fight did take place, and the facts are all set forth in the letter marked No. 4, dated 1st of January, of this year.

Now, I understand this was the fact: These Indians being in absolute want of guns and ammunition to make their winter hunt, were on a friendly visit

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to the fort, desiring to communicate with the commanding officer, to get the order refusing them guns and ammunition rescinded, so that they might be enabled to procure their winter supply of buffalo. It has been currently reported that some 3,000 to 5,000 warriors were assembled to invest this fort. This is not, and cannot by any possibility be true, as this would presuppose a population of 21,000 to 35,000 Indians in that section of country, (being one warrior in seven.) This number of Indians is not there, nor could that number of warriors feed themselves and their horses at this season of the year in that latitude. The whole is an exaggeration; and although I regret the unfortunate death of so many brave soldiers, yet there can be no doubt that it is owing to the foolish and rash management of the officer in command at that post. Nevertheless, there is a band of Sioux Indians in that country, of the Ogallallas tribe, headed by a chief of the name of Red Cloud, that are badly disposed. This is the only band, so far as I am informed, that is hostile as a band; but I have no doubt that around him and under his banner are gathered all the badly disposed Indians of the country. They flock to his standard as individuals, not as tribes, and I think this band, with its adherents, should be severely chastised by the military. With this view, I have recommended to you the appointment of the commissioners whose names you have presented to the President, to proceed to that country at as early a day as possible, with the view of finding all the facts which have led to the affair, and of separating, if possible, the friendly from the unfriendly tribes. By doing so we would be doing justice to those who are innocent, and also avoid a general Indian war, which, if once started, will extend over the entire country, from the Missouri river to the Rocky mountains, and from the mouth of the Yellowstone to the Mexican line. This war should be avoided, if possible, as it would cost millions of dollars, and last for many years.

I submit to you a letter from the War Department, (No. 5,) enclosing the extract from the report of General Sherman, (No. 6.) Such an order, in my opinion, would lead to the very result it is designed to obviate. I submit to you the copy of my report on this subject of the 23d of January, being document No. 7 herewith sent.

It cannot be doubted that the Indians have many just causes of complaint. The policy heretofore pursued, I think has been a bad one; and bad as it was, it has not been justly carried out. Homes should be provided for them, and we have territory enough to give them; their annuities should be greatly increased, and goods of a good quality and adapted to their wants should be furnished them, and also at the proper season of the year. It is a notorious fact that very inferior goods have for some years been given to them, and also at a period too late.

In conclusion, permit me to say that I know of but one remedy for all the evils now existing in our Indian relations. It is the appointment of commissioners, without regard to the politics or religion of the persons appointed, to be composed of men of high character, to proceed to all the States and Territories containing an Indian population; one commission, say of five persons, for each one, viz: to ascertain the number of Indians, their present status, and how many can be aggregated on one or two reservations, and to select these reservations, which should be ample, and report to this department next fall. These commissions should take all the time necessary to master the subject, and, if necessary, spend months in mastering it. The Indians should be then made to go on these reservations, and when there, furnished with stocks of cattle and sheep to raise. At first the cattle and sheep would be eaten by them; but it would not be long before they would find out that the milk of the cow, and the wool of the sheep, and the meat of the beef, as well as the hide and tallow, are all very good things; and in place of giving them large quantities of light and useless goods, paints and beads, give them a reasonable allowance of heavy goods until they can make them themselves, and furnish them with spinning

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and weaving machines. Near this reservation, but not on it, I would advise the location of a military garrison; not too near, for well-known reasons, but within a distance which would secure to the garrison all power to suppress and control the occupants of the reservation, with a resident agent on the reservation, and in the midst of them. After they are thus localized and made to depend on their own care in raising their flocks of sheep and herds of cattle, I would then introduce the schoolmaster and the missionary, and not before. It is worse than useless to attempt to educate and Christianize a few members of a tribe of barbarians. Elevate the whole tribe together; it is slower, but every step taken is maintained.

I have, perhaps, gone beyond the requirements of the resolution submitted to me; nevertheless, I think the views herein suggested are germane to the subject. The question is of the greatest importance, and well worthy the attention of statesmen.

Since writing the above my attention has been called to one of the city papers of to-day, containing what purports to be the action of the military in relation to the question of furnishing, in limited quantities, to friendly Indians, arms and ammunition. I enclose a slip from one of these papers, and if it be true that the military has interfered in the way there stated, it accounts fully for most of our Indian troubles, and this strengthens my previous views, that it is owing to the unwarranted interference of the military that we have the numerous conflicts with these people. How anybody, military or civil, could possibly object to the order given by special agents Irwin and Bogy to the trader Butterfield, is indeed surprising. The law authorizes traders to deal in arms and ammunition with tribes at peace, and this is all that these special agents say. Their order is correct according to law and reason, and the military should not be allowed to interfere. In this case, as in all other cases coming under my observation, this interference has been imperious, and unless it is checked it will lead to the most disastrous consequences; nothing less than the destruction of our entire western settlements, including Nebraska, Kansas, Idaho, Montana, Utah, Colorado, New Mexico, Dakota, Nevada, and Arizona, and the entire column of western emigration. This I wish to avoid.

I enclose you copies of the letter of Governor Edmunds of the 26th September last, enclosing report of Agent Hanson of the 15th of the same month, being document No. 8; also copy of letter of Governor Faulk of the 9th January last, enclosing report of the 31st December, being document No. 9.

Permit me to call particular attention to these reports. The reading of them will satisfy any one of the cause of our present difficulties. All can be traced to the order of General Cooke, of the 31st of July, forbidding the traders from dealing in arms and ammunition; and if we have any trouble with the Cheyennes and Arapahoes, now or very recently perfectly quiet, all newspaper reports to the contrary notwithstanding, it can be traced to the action of Major Douglass, sustained by his superior officer. The special commissioners who visited these Indians last fall were discreet and prudent men, and I am satisfied if their action had not been interfered with that no trouble whatever would exist there. As it is I look for an outbreak every day. The newspaper reports daily seen are generally false; one of them yesterday, concerning a man named Comstock, who is known to be one of the meanest and most worthless fellows on the frontier, although reported to be an interpreter, scout, and guide, all of which is false; he is neither one of these things, but a gambler and thief.

I also enclose you extracts from a letter of General Hancock to Agent Leavenworth, as an evidence of the animus actuating these military commanders, being document No. 10.

It is due to me, in final conclusion, to say, that I entertain for these different distinguished military officers the very highest regard, and no one would go further to defend and protect them in the discharge of their proper duties, but

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I honestly believe that in relation to our Indian affairs and in their tremendous efforts to get possession of this branch of business they are wrong; and, so believing, I am willing to declare it unhesitatingly.

With great respect, your obedient servant,

LEWIS V. BOGY, *Commissioner.*

Hon. O. H. BROWNING,
Secretary of the Interior.

Extracts from the report of Special Agent E. B. Chandler to Superintendent H. B. Denman.

FORT LARAMIE, *January* 13, 1867.

SIR: I have the honor to report my arrival at the Upper Platte agency on the 29th ultimo.

I find in the immediate vicinity of Fort Laramie three hundred and twenty Indians of various tribes and bands, of whom the greater part are squaws and children. Of the latter many of them are half-breeds.

Ten miles from this place is an encampment of one hundred and sixty-five Ogallallas, of the Bad Face band, whose chief is known by the name of Big Mouth. Other small bands of the same Indians, said to number one hundred and thirty persons in the aggregate, are encamped at various places within a distance of fifteen miles from the fort, who, together with those referred to above, receive subsistence from the government. I have been unable to visit all the camps of these small bands; therefore, of my own knowledge, cannot definitely state their numbers; but from observation and from information received from Agent Patrick and Mr. Scott, the government interpreter for this agency, I have no doubt that the whole number of professedly friendly Indians here of all ages amounts to six hundred persons.

Of the other friendly bands of Sioux who participated in the late treaty, made at this place in June last, are those led by Spotted Tail, Standing Elk, Swift Bear, The Man Who Walks Under the Ground, and perhaps others of less reputation. I have been informed by the traders, who have been recently among them, that they are encamped on the Republican river, at a point about one hundred and forty miles from Fort Sedgwick, in Colorado Territory, and that their numbers do not exceed eight hundred persons of all ages, old men, women, and children largely predominating. Their conduct is represented to be good, and the game in that vicinity being abundant, they live comfortably without present need of aid from the government.

In compliance with your instructions to report upon the terms and character of the treaty concluded by the late peace commissioners at this place with the Sioux Indians, I have to say that I have been unable to find a copy of that instrument at this post. A treaty prepared and signed by said commissioners for the Arapaho Indians is in possession of Agent Patrick, and said to be identical in terms with the Sioux and Cheyenne treaties, with the only variance of different amounts of annuities to each. The amount stipulated in the treaty with the Sioux tribe (as I have been told by Mr. Patrick and others who heard the orginal treaty read) is seventy thousand dollars annually for twenty years; the Cheyennes fifteen thousand dollars for the same length of time annually. This large amount was paid in consideration of the provisions of article 3 of that instrument, which, if my information is correct, is as follows:

"The said tribe represented in council shall withdraw from the routes overland already established, or hereafter to be established, through their country, and in consideration thereof the government of the United States

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agree to pay to the said tribe the sum of seventy thousand dollars annually for twenty years, payable in such articles as the Secretary of the Interior may direct: *Provided*, That the said tribe shall faithfully conform to the provisions of this treaty."

The "routes overland" spoken of in said article 3 referred *really* to the Powder River road to Montana, the Indians, as I am informed, being willing to concede the use of all others now open through their country without remuneration. This they claimed led through their best hunting-ground, and they believed the use of the same by the whites would result in driving out the game, leaving them without the means of future subsistence, and for a long time seemed indisposed to comply with this, the main and most important condition of the treaty, upon any terms. At the opening of the council, however, Colonel E. B. Taylor, in a speech, promised the Indians that the travel on said road should be confined strictly to the line thereof, and that emigrants and travellers generally should not be allowed to molest or disturb the game in the country through which they passed. With this promise, impossible of performance, well calculated, and, as I believed, designed to deceive them, the distribution of a large amount of presents, and the obligation of the government to pay an extravagant annuity, the treaty was at length concluded with parties holding subordinate and irresponsible positions in the tribe, and representing inconsiderable numbers. That they were unable and did not control the action of the bands which they assumed to represent will be clearly proven by subsequent facts.

That Red Cloud, Red Leaf, and the Man Afraid of His Horses were the principal, leading, and most influential chiefs of the tribe, was well known and acknowledged by residents of the country generally; that the commissioners considered Red Cloud the most prominent chief of the Sioux tribe, was clearly proven by the pains taken to procure his attendance at the treaty, and the distinguished consideration shown to him more than to any other chief after his arrival, as well as by public acknowledgment of the fact by one of said commissioners; that these commissioners were determined to make a treaty upon *some terms*, either with or without the consent of the tribe, was clearly apparent from all their official acts; that Commissioner Taylor repeatedly asserted that he was sent here by the government for the purpose of making a treaty, and it should be accomplished if made with but *two Indians*, can be proved by numerous officers and citizens at and near this post who heard him.

Within two weeks after the conclusion of the so-called treaty, Spotted Tail, Standing Elk, (and all others of the professedly friendly Indians now on the Republican,) then on their way to that place, told ranchmen and traders of their acquaintance whom they met that many of their young men had determined to go to war, and had left them and gone to the Powder River country, and they advised all who had occasion to go far from home to "go prepared, and look out for their hair."

At their crossing of the South Platte river, some days subsequently, parties who met and conversed with these Indians report their numbers to be less than one hundred lodges, and their party made up principally of old men, squaws, and children. The statement of their chiefs at this time, in explaining the absence of these young men, was substantially the same as given before.

I am informed by Captain Besbee (late of Fort Philip Kearney) that early in the month of July last the troops of that place, while pursuing hostile Indians who had stolen stock from that fort, captured from them a horse loaded entirely with Indian goods which had been distributed and brought from the Fort Laramie treaty. He further states that, from information obtained from scouts and mail-carriers, he believes there is a very large body of hostile Indians in Tongue River valley, many of whom are Sioux, and that for a long time past he considers the fort to have been in a state of siege by them.

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From the foregoing facts and the statements of various parties who were present at the treaty, and were well acquainted with the facts and circumstances attending the same, giving to each the weight which I believe it is justly entitled to receive, I have arrived clearly to the opinion that the so-called treaty with the Sioux Indians, concluded at Fort Laramie in June last, was little better than a farce, entitled to no consideration from the government, and ought not to be ratified.

In relation to the treaty made with the Cheyennes, by order of Colonel E. B. Taylor, on the 11th day of October last, I am of the opinion that it ought not to be ratified by the government, it having been made with but an inconsiderable portion of the tribe, and signed by parties who were not then principal chiefs and headmen.

Respecting the tribes and bands of Indians now at war with the United States, I think all north of the North Platte river may be considered hostile. From information received by a friendly Indian sent from here to the Powder River country, (and who started home from the encampments of the hostile bands on the day of the massacre at Fort Philip Kearney,) I learn the names of the different tribes and bands then at war to be the Minneconjous, Brulés, Ogallallas, Crows, Uncpapas, Blackfeet, Sans Arcs, Arapahoes, a portion of the Cheyennes, and some others whose names I have now forgotten. His estimate of their strength at that time was eleven thousand six hundred warriors. Later estimates have been much higher, but I think his the most reliable up to the present time. Since he was there, however, it is probable that these Indians have been re-enforced. Red Cloud, Red Leaf, and The Man Afraid of His Horses, are supposed to be the principal instigators and leaders in the war.

Respecting the friendly Indians belonging to this agency, I would recommend, with a view to justice alone, that they receive protection and the necessary subsistence from the United States. Their situation is such that I deem it hardly possible for them to live upon their own resources for a considerable length of time without returning north of the Platte river, where they would not be permitted to maintain a neutrality, were they otherwise so disposed. The hostility to the whites has become so general among all the tribes in this portion of the country, and their warriors are so numerous, that no small body of friendly Indians will be tolerated within their reach. In my opinion, then, the alternative of feeding or fighting them must soon be chosen. As economy, as well as justice, would indicate the adoption of the former policy, I have no hesitation in recommending its adoption.

Besides the foregoing considerations in favor of liberal treatment to them, the precedent of kindness and liberality, as the reward of honesty and good faith shown to those now hostile to the government, would be eminently favorable to an early and satisfactory peace.

Although I am fully satisfied that an extensive Indian war is inevitable, and that severe chastisement must be inflicted before they will make or abide a treaty, the conditions of which would be acceptable to the government; yet, if a reservation should be provided affording protection and subsistence, I have no doubt that the comparatively small number who would now consent to be put upon it would be rapidly and largely increased.

From the information which I have been able to obtain upon this subject, I believe that two hundred lodges would come into this arrangement at once. I am also equally certain that unless they are provided for in a manner satisfactory to themselves, all will soon be at war.

I would therefore earnestly recommend that a temporary reservation within the protection of a military post be chosen at an early day, and all Indians belonging to the Upper Platte agency then at peace with the United States be invited to come upon the same, subject to such rules, regulations, and instructions as the honorable Secretary of the Interior Department shall see fit to impose.

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[General Order No. 10.]

HEADQUARTERS DEPARTMENT OF THE PLATTE,
Omaha, Nebraska Territory, July 31, 1866.

On information received that unauthorized persons sell arms and ammunition to Indians, the Commissioner of Indian Affairs has instructed Indian agents to prohibit traders from selling these articles to the Indians, and all commanders of troops within the department will co-operate in the enforcement of these instructions, and will take vigilant and decisive measures for the prevention of all sale, barter, or gift of arms or ammunition to Indians within reach of their power.

By order of Brigadier General Cooke.

FORT PHIL. KEARNEY, DAKOTA TERRITORY,
December 15, 1866.

DEAR JOHN: I am in the enjoyment of good health at this time. Lieutenant Wands and family are in good health. I mess with them.

A few days ago a wagon train had gone up to the mountain five or six miles from this post for the purpose of cutting pine timber for buildings. On their return they were attacked by about three hundred Indians. We have a mounted guard on post on top of a very high point near the fort, who telegraphed to us by means of a flag of the condition of the wood train. The mounted cavalry and infantry were immediately ordered out to relieve them. They started in two parties, Colonel Carrington and fourteen men going in one direction, and about thirty in another. The larger party, among whom was Captain Brown, Lieutenant Wands, (Lieutenant Grummond was with the colonel,) Captain Fetterman, and Lieutenant Bingham, who was a cavalry officer, came upon the Indians suddenly, and charged them. The fight continued for a distance of eight miles or more. Wands killed a horse and probably some Indians at one time while dismounted; and in the fight the cavalry broke and were brought back (some of them) by Captain Brown and Lieutenant Wands levelling their guns at them, and telling them that they would shoot them. Most of the men and officers had breech-loading guns. While the fight was going on, Lieutenant Bingham, of the cavalry, called out to the others, "Come on," beckoned, and went off with some of the men in the direction of the colonel, who was seen approaching at the distance of half a mile. This was just what the Indians wanted. Captains Brown and Fetterman, and Lieutenant Wands, with ten or eleven men, remained and fought the whole of them, and whipped them. Wands was slightly wounded in the finger. Lieutenant Grummond left the colonel's party, and meeting Lieutenant Bingham, they and three or four men started in the pursuit of about thirty Indians, who were apparently retreating; an Indian's horse had almost given out, and Lieutenant Bingham wounded the horse by a pistol shot. (Lieutenants Grummond and Bingham had nothing but pistols.) The Indian then took to his heels, they following him, cutting at him with their swords. Bingham lost one pistol, and after firing the other, so excited did he become that he threw it away. At this time they saw two large bodies of Indians flanking them, when they concluded to run through them; drawing their swords, they laid about them right and left. Lieutenant Bingham did not follow the rest and was killed, stripped, and scalped; two sergeants and one more were wounded. Lieutenant Grummond ran against the Indians, and cutting right and left with his sword, got through with the balance. After a while they were surrounded again by a large number of Indians, drawn in a circle around them with spears, at a charge, and firing upon them; they halted, and Lieutenant Grummond then told the rest to follow him; they did, he using

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his sword as before. All got through; but Sergeant Bowens no doubt turned around and fired upon his pursuers; they overtook and put an arrow in him and split his skull open above the eyes. They did not scalp him. Our people found him a short time afterwards; he was living and in great agony, but died in a short time. We buried Bingham with masonic honors so far as we could. There were seven masons, one an enlisted man, in the cavalry.

C. M. HINES.

FORT PHIL. KEARNEY, D. T., *January* 1, 1867.

DEAR JOHN: * * * * * *

Matters in this part of the country do not suit me. I have written to you before that the treaty at Laramie did not amount to anything; the three posts, Reno, Kearney, and C. F. Smith, are really in a state of siege. All the Sioux, including those that committed the atrocities in Minnesota, are in our neighborhood. Fort Reno has a garrison of three companies of infantry, (not full,) one piece of artillery; Fort Phil. Kearney, four pieces of artillery, five companies of infantry, (one-half effective,) and a few mounted men—all together, soldiers and employés, about 400 men, (effective;) Fort C. F. Smith, two pieces of artillery, two companies of infantry, (not full,) and twenty-eight mounted men. So you can perceive that these forts are in a state of seige. The mass of the Indians are on Tongue river, about fifty miles from this post. Our communications with Fort Smith are entirely cut off. There are 1,500 lodges of Indians at that point, and their confederates, Blackfeet, Cheyennes, Arapahoes, &c. The whole number of warriors must amount to four or five thousand, well mounted and armed. They have several times attacked the wood trains of ours. Once we whipped them badly. For some time back they were in the habit of coming on the bluffs near this fort, calling out to us and challenging us to the fight. Colonel Carrington shelled them, at one time killing a pony. On Friday morning, 21st of December, they made their appearance in small numbers near the fort, challenging us in the usual manner. Colonel Carrington shelled them, killing the pony I have mentioned, and driving about thirty Indians from their covert. Captain and Brevet Lieutenant Colonel Fetterman, Captain Brown, and Lieutenant Grummond were ordered out by the colonel to protect our wood train, which had been attacked. Captain Fetterman commanded the infantry, Lieutenant Grummond the cavalry, (twenty-seven men,) and Captain Brown some mounted teamsters and citizens, the whole amounting to eighty-one men, about fifty of whom were armed with the Spencer carbine and pistols, one or two with Henry rifles, and the balance with the Springfield musket. No men were better armed. Instead of obeying orders, these officers (than whom there were none better or braver in the service) allowed themselves to be decoyed from the position ordered to be taken, and the whole command were butchered, (eighty-one officers and men.) I was ordered by Colonel Carrington, with one man, to go out to the wood train, (five miles off,) and if I found them safe to join the other command. I went out about three miles, when I saw that the wood train was in no danger. I then, obeying orders, attempted to reach the party under fire, and found it impossible. At that time I had four men with me; sent to the fort for re-enforcements; forty men, under the captain, were sent out, and we reached the field just in time to see the last man killed. If I had obeyed my instructions I would have been killed. These poor fellows when killed, the greater number, were in one heap. We brought in about fifty in wagons, like you see hogs brought to market. I have no more to write at present. I will write more in detail by next mail. * *

I remain, your brother,

C. M. HINES,
Acting Assistant Surgeon, U. S. Army.

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DEPARTMENT OF THE INTERIOR, OFFICE INDIAN AFFAIRS,
Washington, D. C., January 31, 1867.

SIR: Referring to a recent report from this office, dated 23d instant, upon the subject of the existing disturbances in western Dakota, I have the honor to submit herewith, as confirming the views therein set forth, a copy of a letter under date of the 1st instant, from Acting Assistant Surgeon C. M. Hines, on duty at Fort Phil. Kearney, giving an account of the reported massacre of United States soldiers on the 21st ultimo. A previous letter of Dr. Hines, written, like this, to his brother in this city, had given an account of a slight skirmish with the Indians on the 6th of December. It is proper to state that the letter herewith is by the writer authorized to be given to the public, so that its statements, being those of an officer present at the time and familiar with the circumstances, but written to a friend and unofficially, and without any coloring beyond that which appears to have affected the minds of the whole command, may be fairly taken as representing the true state of feeling at the time and place. If I am correct in this view of the case, then I feel justified in commenting freely upon the facts presented.

And first, I notice that the military authorities appear to have had very little idea of their real condition. With a respectable force in garrison, well armed and well supplied, and with the "mass of the Indians on Tongue river, fifty miles from" the post, the garrison felt itself besieged. The tribes of Indians at hand are described as the Sioux and "their confederates, Blackfeet, Cheyennes, Arapahoes," &c., while, from the information obtained from parties familiar with the tribes, their habits, and ordinary ranges, I do not hesitate to express the opinion that not a single warrior from the Blackfeet bands is or has been among the Sioux; and as to the Arapahoes and Cheyennes, if there are any of them in that quarter, they are isolated individuals only. Further, as to the tribes represented, the writer says that the "Sioux that committed the atrocities in Minnesota" are in the neighborhood of the post; while, if the truth is ever known, it will be found that not one of those bands of Sioux was at the time less than about 500 miles distant.

As to the *numbers* of the Indians thus holding the posts under siege, the 1,500 lodges mentioned by the writer would represent a population of some 9,000, while the "4,000 or 5,000 well-mounted and armed warriors" would represent a population of 24,000 to 30,000 Indians; an enormous exaggeration of the number which could by any possibility be in that country, showing the terrible state of demoralization into which the minds of the most intelligent men must have fallen. If we note other items of the account, as the alleged attack upon the wood train, which, after all, as would appear from another portion of the letter, was *not* attacked, or, if attacked, nobody was hurt, the challenge by the Indians, and the result of the shelling by Colonel Carrington, being the dislodging of some thirty Indians from their covert, and other circumstances, the whole affair seems incredible, but for the sad certainty of the bringing back to the post of the bodies of officers and men killed in the conflict, and I find it difficult to account for the tragedy upon any other theory than that heretofore advanced by this office, to wit: that the Indians, almost in a state of starvation, having made repeated attempts at a conference, that they might make peace and obtain supplies for their families, and the rescinding of the order prohibiting them from obtaining arms and ammunition, were rendered desperate, and resorted to the strategem which proved too successful. It seems as if the officer commanding could have avoided the catastrophe; and it seems also that men thus armed could have repelled an attack by all the Indians in Western Dakota. I do not wish to justify the Indians in their hostilities; but they are but men, with the necessities of life for themselves and their families staring them in the face; and if their overtures for peace are continually and wantonly repelled, they go to war, and they wage war after their own savage fashion.

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I have felt it my duty to express frankly my opinions in transmitting the within letter; and having done so, I have only to say that I see no surer or better way of preventing such occurrences in the future than by such measures as I have already recommended—a commission of judicious men to visit the region in question, with proper powers and instructions.

Very respectfully, your obedient servant,

LEWIS V. BOGY,
Commissioner.

WAR DEPARTMENT,
Washington, January 18, 1867.

SIR: I have the honor to transmit herewith a copy of a report from General Grant, in relation to an official communication made by Lieutenant General Sherman, having in view the restriction of the Sioux Indians to districts lying north of the Platte, west of the Missouri, and east of the new road to Montana; of the Arapahoes, Cheyennes, Comanches, Kiowas, Apaches, and Navajoes to the region south of the Arkansas and east of Fort Union.

This recommendation, as the Lieutenant General states, is made with a view to keep open the great routes to the mountain Territories, to render safe the prosecution of work on the Pacific railroads, and to prevent apprehension of Indian depredations. General Grant approves the proposition, if it does not conflict with treaty obligations.

I will thank you for an expression of your views upon the subject, in order that if the course proposed shall be determined upon, the necessary measures may at once be commenced.

I have the honor to be, sir, your obedient servant,

EDWIN M. STANTON,
Secretary of War.

Hon. O. H. BROWNING,
Secretary of the Interior.

HEADQUARTERS ARMIES OF THE UNITED STATES,
Washington, D. C., January 15, 1867.

SIR: In a report by General Sherman, forwarded with my annual report, dated November 21, 1866, the following passage occurs:

"I propose the coming year (with your consent, and with that of the Secretary of the Interior, in whose control these Indians are supposed to be) to restrict the Sioux north of the Platte, west of the Missouri river, and east of the new road to Montana, which starts from Laramie to Virginia City by way of Forts Reno, Philip Kearney, C. F. Smith, &c.

"All Sioux found outside of these limits without a written pass from some military commander, defining clearly their object, should be dealt with summarily. In like manner I would restrict the Arapahoes, Cheyennes, Comanches, Kiowas, Apaches, and Navajoes, south of the Arkansas and east of Fort Union. This will leave for our people exclusively the use of the wide belt east and west, between the Platte and the Arkansas, in which lie the two great railroads, and over which passes the bulk of travel to the mountain Territories. As long as these Indians can hunt the buffalo and antelope within the described limits, we will have the depredations of last summer, and, worse yet, the exaggerations of danger raised by our own people, often for a very base purpose. It is our duty, and it shall be my study, to make the progress of construction of the great

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Pacific railways that lie in this belt of country as safe as possible, as also to protect the stage and telegraph lines against any hostile bands; but they are so long that to guard them perfectly is an impossibility, unless we can restrict the Indians as herein stated. I beg you will submit this proposition to the honorable Secretary of the Interior, that we may know that we do not violate some one of the solemn treaties made with these Indians, who are very captious and claim to the very letter the execution on our part of those treaties, the obligation of which they seem to comprehend perfectly."

I approve this proposition of General Sherman, provided it does not conflict with our treaty obligations with the Indians now between the Platte and Arkansas rivers. The protection of the Pacific railroad, so that not only the portion already completed shall be entirely safe, but that the portion yet to be constructed shall in no way be delayed either by actual or apprehended danger is indispensable.

Aside from the great value of this road to the country benefited by it, it has the strongest claims upon the military service, as it will be one of its most efficient aids in the control of the Indians in the vast regions through which it passes.

I respectfully request that I may be informed at an early day whether this proposition is approved by you and the Secretary of the Interior, that measures may be taken to carry it into effect.

Very respectfully, your obedient servant,

U. S. GRANT, *General*

Hon. E. M. STANTON,
Secretary of War.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
January 23, 1867.

SIR: The letter of the Secretary of War of the 18th instant, containing extracts from the report of General Sherman to General Grant, with the approval of the same by General Grant, having been referred to me for a report thereon, I beg leave to say:

General Sherman says, "that he proposes to restrict the Sioux Indians to the district of country between the Platte, the Missouri river, and the road to Montana which starts from Laramie for Virginia City, by the way of Forts Reno, Phil. Kearney, and C. F. Smith, and that any Indian found outside of these limits without a written pass shall be summarily dealt with." He proposes also to restrict the Arapahoes and Cheyennes, Comanches, Kiowas, Apaches, and Navajoes south of the Arkansas and east of Fort Union; the object of this arrangement being to leave open the wide belt of country between the Platte and the Arkansas.

That the belt of country lying between the Platte river on the north and the Arkanses river on the south should be opened to the whites by the removal of the Indians now occupying it, is a necessity which cannot be doubted. The fact that railroads are now being built through this country, and that it is the highway for the thousands of emigrants going to our western Territories, imposes on the government the necessity of affording to them complete protection. To effect this object, the removal of the Indians from this strip of country is, therefore, an absolute necessity. On this subject I agree with the view expressed by General Sherman, but I entirely dissent from the position he assumes in his report as to the mode of accomplishing this object. As already said, the time has come when these Indians must abandon this portion of country, and if they will not do so willingly, when other homes are provided for them, force

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will have to be used. The spread of our white settlements throughout this vast section of country cannot and should not be checked, as it cannot be prevented. The question now presenting itself is, how is this to be accomplished? Will the order to be issued by the commanding officer of the western department have this magical effect? On the contrary, will it not lead to resistance on the part of the Indians whom you thus undertake to remove from the hunting grounds over which they and their forefathers have roamed for generations? And will not this resistance lead to trouble and war with them, in which the lives of thousands of persons will be sacrificed, the railroads now already being far advanced in the country destroyed, the profitable trade of the prairies, even with these very Indians themselves, annihilated, and the government involved in millions of dollars of expense? This country yet belongs to these Indians; it has not been ceded by them. Now cannot a policy be adopted which will effect the same object without involving the disasters above enumerated? I think such a policy could be devised. There is one fact which cannot be denied by any one acquainted with Indians: it is, that their chiefs are all superior men; they are always their best men. No one becomes a chief until he has proven his valor in war and wisdom in council. These chiefs control their different tribes, with the exception of a few bad men found among them, as among us. With proper means, I am satisfied that these chiefs can all be made to see and fully understand their position, and the necessity imposed upon the government of securing this belt of country to the whites. Admitting you can satisfy them of this fact, the next question is, can you induce them to remove to another locality? I have no doubt that if proper steps are taken this can be done. It is true they may not entirely abandon this country this season, but they can be kept quiet; which is all that is wanted for the present, and their minds directed to the new home which you will provide for them. That this new home may be in the district of country described by General Sherman is very possible. In my opinion it is too late to abandon the system of treaties with Indians. With judicious management, I think they can all be made to abandon the country needed by our people, and to settle down on reservations, which should be larger than formerly made. Annuities ought to be increased, and stock, cattle, sheep, and horses, given to them to raise. It is of little consequence to this government if a few hundred thousand dollars, more or less, per annum be expended, provided these people are kept quiet, and, at the same time, means of subsistence be furnished to them to support themselves for the few years which, in all probability, they will yet exist.

I would therefore suggest that you, as the officer of the government having the Indians in charge, inform the military authorities of your disapproval of this contemplated order. I would also suggest that one of the greatest difficulties, and, indeed, I think the greatest difficulty, I encounter, in administering the affairs of this bureau, is the constant interference on the part of the military with all Indian affairs.

That there is a misapprehension on their part in relation to this matter is beyond doubt, otherwise such constant interference by them would not occur. The commanders of the different forts throughout the whole Indian country claim and exercise the right of controlling the Indian agents, and of issuing orders in relation to the trade with the Indians by the licensed traders. From observation, both in this bureau and as a citizen of the west, I am, and have been for years, satisfied that this was the cause of most of our Indian wars. The military should be made to understand that they are in that country merely as a police, to aid the agent in the discharge of his duties, and not to control him. The law regulates the trade with Indians, and no military commander should be allowed to interfere. I am satisfied that the recent troubles at Forts Laramie and Phil. Kearney grew out of injudicious military interference. I am informed that General Cooke, commandant at Omaha, issued an order prohibiting the

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traders to sell to the Indians arms and ammunition. Such prohibitions I believe to be unwise, as the Indian has to depend upon the chase for his subsistence and that of his wife and children. Arms and ammunition are of absolute necessity; he will, therefore, if possible, and no matter at what cost, procure them. Then again it is perfectly idle to say that he will accumulate them to make war on the whites. No Indian will buy two guns; one he will and ought to have; nor will he lay up any large quantity of powder, as he has no means of keeping it. He needs one gun and a little powder, and this is his only means of subsistence.

In conclusion, I will take this occasion to say that in my opinion the time has come when all the Indians throughout the country should be taken on large reservations, with fair annuities honestly paid them, and stock of cattle and sheep furnished them to raise. In this way the country needed by the whites can be relieved from their occupation, Indian wars prevented, vast expenditures to the government thereby saved, and a future, although limited, provided for these poor people.

If this system is not adopted, I see nothing for them but total and speedy destruction; and if this be the policy it should be avowed openly and carried out with energy. Either destroy them at once, or do for them that which their necessities plainly require.

Very respectfully, your obedient servant,

LEWIS V. BOGY,
Commissioner.

Hon. O. H. BROWNING,
Secretary of the Interior.

Extract from letter of ex-Governor Edmunds, of Dakota, dated September 26, 1866, *transmitting Agent Hanson's report of September* 15, 1866.

I also have the honor to enclose a letter from Agent Hanson, in relation to the military order prohibiting the sale of ammunition, &c., to the Indians under his charge, and beg leave to recommend that you give this matter early attention, as it is one of great importance to those Indians. I am clearly of the opinion that those Indians ought not to be included as among those to whom arms and ammunition are prohibited, and am fearful that it will have a tendency to complicate and embarrass their management.

Your obedient servant,

NEWTON EDMUNDS,
Ex officio Superintendent Indian Affairs.

CROW CREEK AGENCY,
Dakota Territory, September 15, 1866.

SIR: My attention has recently been called to military General Order No. 10, dated Headquarters Department of the Platte, Omaha, Nebraska, July 31, 1866, being, in brief, an order prohibiting traders and others selling or disposing of, in any manner, arms of all description and ammunition to Indians.

It has been only a few days since I was made aware that the sale of ammunition to these Indians had been prohibited. My instructions from the superintendent, received 22d ultimo, in relation to this subject, did not include ammunition, but only mentioned "arms of all descriptions."

I have now the honor to object to the enforcement of such an order within this agency. There never has been a time, to my knowledge, when the Indians of this agency have given more satisfactory evidence of friendship and complete acquiescence in the authority of the government than since I have been their

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agent. The sincerity of their cause has been tested by the most trying of all ordeals—actual starvation. The history of the white race scarcely furnishes a parallel instance of such a body of people enduring such an amount of misery with such forbearance. What better evidence does the government ask before it is willing to cease treating these Indians as alien enemies, and deal with them as with a people in amity with its authority? Since the formation of the new treaties have they committed any overt act of hostility? If not, is it right to treat these often abused people as enemies purely upon speculation as to their further intentions? That the order is well enough when applied to some sections of the military district, where war still exists, is apparent, but that the Indians of this agency shou'd be held responsible or made to pay any share of the penalty for the continued hostility of the Indians of the Platte, or elsewhere, is not just.

The government has furnished many of these Indians with double-barrel shotguns. This spring I distributed eighteen, and the commission about as many more. These went into the hands of the Indians who have always been friendly to the government, and to now refuse to permit them to purchase ammunition for these same guns is, under existing circumstances, without any sufficient reason that I am able to observe.

A large delegation of the Lower Brule, Lower Yanctonais, and Two Kettle bands called on me yesterday, and asked me to have this matter changed; I have therefore to request that the order above referred to may be so far modified as to place the sale of ammunition in this agency to Indians within my control. In this way none but reliable ones will get such, and only in such quantities as in my judgment they may need for their hunting purposes.

I desire to draw your attention to one other military order, now being enforced at Forts Sully and Rice, which prohibits Indians and traders stopping in these reservations. This order I have not yet been able to see; but the Indians have counseled with me concerning it, and they complain that it does not allow them to camp within eight or ten miles of Fort Sully, and thus excludes them from the timber along the Missouri, where they have been for many years accustomed to seek shelter from the freezing winter blasts of this region.

While I am of the opinion that the military forces within this agency should be as far separated as possible from the Indians, for reasons of a moral nature, if no other, I see no necessity, and but gross injustice, in this military order. Surely, a military reservation extending from fifteen to twenty miles along both sides of the Missouri river, embracing all the best timbered lands between Forts Sully and Rice, is large enough to spare to these Indians a wintering place, and I trust your department of the government is generous enough to accord to them this right.

Very respectfully, your obedient servant,

J. R. HANSON,
United States Indian Agent.

Extract of report of Governor Foulk, of January 9, 1867, *transmitting monthly report of Agent Hanson of December* 31, 1866,

* * * * * * * * * * * *

The question of supplying the friendly Sioux Indians with the small amount of ammunition necessary to procure their subsistence is also worthy of your attention. My own experience in the Indian country leads me to favor such a course. When they have the arms and ammunition necessary for ordinary hunting purposes, they are more contented and friendly, and are more self-sustaining. I have no doubt that the order referred to by Major Hanson prohibit-

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ing the sale of arms and ammunition should be revoked or in some way modified so as to relieve friendly tribes from the danger of starvation on that account, and from the necessity of carrying their peltry to British traders to exchange for such purposes. The whole subject seems to be worthy of your early attention.

I have the honor to be your obedient servant,

A. J. FOULK,
Governor and ex officio Superintendent of Indian Affairs.

Hon. LEWIS V. BOGY,
Commissioner of Indian Affairs.

Extract from monthly report of Agent Hanson of December 31, 1866

* * * * * * * * * * * *

During my recent trip to Fort Sully and Fort Rice, I found the universal complaint of friendly Indians to be regarding the prohibition of the sale of ammunition Under the date of 15th September last, I wrote the Hon. Commissioner of Indian Affairs upon the subject. I have the honor to again draw attention of the Commissioner to that communication. I have advised with all the military officers within this agency from Crow creek to Fort Rice, and I have not yet found one not in favor of setting this order aside. The Indians who gather at these different points are friendly to the government and enemies to the hostile Indians, and fear them as enemies. They say they are willing to help protect the whites if they can only be permitted to purchase the means with which to do it. The Indians inimical to the government procure all the ammunition they desire from traffic with the Red river half-breeds. This the friendly Indians understand, and tell me this prohibition has driven many of their young men into the hostile camp; and again, it is now approaching the season of the year when the Indians, settled along the Missouri river, must subsist to a great extent upon such small game as cannot be successfully hunted with bows and arrows. Justice to these Indians requires that the order be immediately abrogated. I think it a very dangerous order to enforce among these Indians. At this place, Fort Sully and Fort Rice the Indians of known friendship should be permitted to purchase ammunition in small quantities, sufficient for hunting purposes. An arrangement as to the quantity and manner of purchase can easily be made between the commander of the district, with whom I have conferred upon this subject, and the agent. I trust this subject may be regarded of sufficient importance to command immediate attention.

J. R. HANSON,
United States Indian Agent of Upper Missouri Sioux.

Extract of a letter to Colonel J. H. Leavenworth, United States Indian agent, from Winfield S. Hancock, major general commanding.

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
Fort Leavenworth, Kansas, January 17, 1867.

It is not unlikely that a demand will be made before long upon the Cheyennes to redress some grievances. When that time arrives you will be notified of the fact.

They will be allowed some time to consider and talk over the matter If you have any fear of the result leading to hostilities, you had better place yourself at Fort Larned or Fort Dodge, as you may think best.

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If you can get any evidence concerning the reported murder of the Kaw by Bent's band of Cheyennes, please furnish the same to me, as I am collecting all the evidence I can in relation to the outrages committed by that tribe.

Your remark that Indians should not be allowed to visit military posts save on business is perfectly correct as a rule, and I will call attention to that matter.

I am, sir, very respectfully, your obedient servant,

WINFIELD S. HANCOCK,
Major General Commanding.

[From the Washington Chronicle, February 4, 1867.]

Sale of arms under authority of the Indian Bureau.—Interesting correspondence.—Opinions of Generals Grant and Sherman.—Necessity of transferring the bureau to the War Department.

The Secretary of War has addressed a communication to Representative Schenck, chairman of the Committee on Military Affairs, enclosing, for the information of the committee, a copy of a letter from Major Douglass, commanding Fort Dodge, dated January 13, in relation to the issue of large numbers of arms, with ammunition, to the Kiowas and other Indians, and expressing his apprehension of Indian hostilities in consequence thereof. The anxiety of the Indians for such articles is not caused by the lack of supply, because they have plenty to last for some time, but everything tends to show that the Indians are laying in large supplies preparatory to an outbreak.

Major Douglass represents the Indians to be in an unsettled condition, with much dissatisfaction on account of the unequal distribution of presents.

General Grant on the 1st instant enclosed a letter from Lieutenant General Sherman to the Secretary of War. General Grant says the letter shows the urgent necessity for an immediate transfer of the Indian bureau to the War Department, and the abolition of the civil Indian agents and licensed traders. "If," he says, "the present practice is to be continued, I do not see that any course is left open to us but to withdraw our troops to the settlements, and call upon Congress to provide means and troops to carry on formidable hostilities against the Indians until all the Indians or all the whites on the great plains and between the settlements on the Missouri and the Pacific slope are exterminated. The course General Sherman has pursued in this matter, in disregarding the permit of Mr. Bogy and others, is just and right. I will instruct him to enforce his order until it is countermanded by the President or yourself. I would also respectfully ask that this matter be placed before the President, and his disapproval of licensing the sale of arms to Indians be asked. We have treaties with all tribes from time to time. If the rule is to be followed that all tribes with which we have treaties and to which we pay annuities can procure such articles without stint or limit, it will not be long before the matter becomes perfectly understood by the Indians, and they avail themselves of it to equip perfectly for war. They will get arms either by making treaties themselves or through tribes who have such treaties."

General Sherman's letter is dated January 21 last, and addressed to General Hancock, commanding the military division of the Missouri, in which he says: "We, the military, are held responsible for the peace of the frontier, and it is an absurdity to attempt it if Indian agents and traders can legalize and encourage so dangerous a traffic." He says he regards the paper enclosed, addressed to Mr. D. A. Butterfield, and signed by Charles Bogy, W. R. Irwin, J. H. Leavenworth, and others, as "an outrage upon our rights and supervision of the matters," and authorizes General Hancock to disregard that paper, and at once stop the practice.

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This paper, addressed to Mr. Butterfield, is as follows:

"SIR: You having requested verbally to be informed in regard to your right to sell arms and ammunition to Indians, we have to state as follows: You, as an Indian trader, licensed for that purpose by the United States government, are authorized to trade or sell arms and ammunition to any Indians that are at peace with and receiving annuities from the United States government. This rule, of course, applies to any other regularly licensed trader as well as yourself."

Letter of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 30th ultimo, the official reports, papers, and other facts in relation to the causes and extent of the late massacre of United States troops by Indians at Fort Phil. Kearney.

WAR DEPARTMENT,
Washington City, February 2, 1867.

SIR: I have the honor to transmit herewith a communication of this date from General Grant, covering all official reports, papers, and other facts bearing on the subject of the late massacre of United States troops by Indians at Fort Phil. Kearney, called for by the Senate's resolution of January 30, 1867.

Very respectfully, sir, your obedient servant,

EDWIN M. STANTON,
Secretary of War.

Hon. L. F. S. FOSTER,
President of the Senate.

HEADQUARTERS ARMIES OF THE UNITED STATES,
Washington, February 2, 1867.

SIR: I have the honor to return Senate resolution calling for information "which may tend to explain the origin, causes, and extent of the late massacre of United States troops by Indians at or near Fort Phil. Kearney, in Dakota Territory," and referred by you to me for report. I send herewith "all official reports, papers, and other facts" in possession of these headquarters bearing upon the subject.

I am, very respectfully, your obedient servant,

U. S. GRANT, *General.*

Hon. E. M. STANTON,
Secretary of War.

HEADQUARTERS DEPARTMENT OF THE PLATTE,
Omaha, Nebraska, December 26, 1866.

GENERAL: On the 21st instant three (3) officers and ninety (90) men, cavalry and infantry, were massacred by Indians very near Fort Philip Kearney.

Indians reported near three thousand, (3,000,) probable, from the completeness of the massacre.

I ordered up four (4) companies of infantry and two (2) of cavalry from Laramie.

I order Colonel Carrington to Casper, headquarters of the new eighteenth; if not approved, I request the assignment of General Wessels at Reno to his brevet rank, to command district.

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Just received at least five "leaves of absence" of officers of these troops. It is important that all these officers be ordered to join.

Brevet Lieutenant Colonel Fetterman, Captain Brown, and Lieutenant Grammond are the officers killed; not a man was left alive.

Sent direct in General Sherman's absence.

Shall report by mail.

P. ST. GEORGE COOKE,
Brevet Major General Commanding.

Major General JOHN A. RAWLINS,
Chief of Staff.

Official copy:

E. S. PARKER,
Colonel and A. D. C.

[Telegram.]

HEADQUARTERS ARMIES OF THE UNITED STATES,
Washington, December 26, 1866.

General Grant desires me to say that your despatch of to-day is received. Your action in Colonel Carrington's case is approved; and if you deem it still necessary, you are authorized to assign General Wessells as proposed. Suspend all leaves of absence until you think they can be safely granted.

C. B. COMSTOCK,
Brevet Brig. Gen. and A. D. C.

General P. ST. GEO. COOKE, *Omaha.*

Official copy:

E. S. PARKER,
Colonel and A. D. C.

[Received at office United States military telegraph, War Department, Washington, D. C., December 26, 1866.]

FORT PHIL. KEARNEY, *December* 21, 1866,
By courier to Fort Laramie, December 26.

GENERAL: I send copy of despatch to General Cooke simply as a case when in uncertain communication I think you should know the facts at once. I want all my officers. I want men. Depend upon it, as I wrote in July, no treaty but hard fighting is to assure this line. I have had no reason to think otherwise. I will operate all winter, whatever the season, if supported; but to redeem my pledge to open and guarantee this line I must have re-enforcements and the best of arms up to my full estimate.

Respectfully, your obedient servant,

HENRY B. CARRINGTON.

U. S. GRANT.

Official:

E. S. PARKER,
Colonel and A. D. C.

Copy forwarded to Secretary 27th.

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[Copy of telegram to General Cooke.—Received at office of United States military telegraph, War Department, Washington, D. C., December 26, 1866—3.15 p. m.]

FORT PHIL. KEARNEY, D. T., *December* 21, 1866,
By courier to Fort Laramie, December 26.

Do send me re-enforcements forthwith. Expedition now with my force is impossible. I risk everything but the post and its store. I venture as much as any one can, but I have had to-day a fight unexampled in Indian warfare. My loss is ninety-four (94) killed. I have recovered forty-nine bodies, and thirty-five more are to be brought in in the morning that have been found. Among the killed are Brevet Lieutenant Colonel Fetterman, Captain F. H. Brown, and Lieutenant Grummond. The Indians engaged were nearly three thousand, (3,000,) being apparently the force reported as on Tongue river in my despatches of the 5th of November and subsequent thereto. This line, so important, can and must be held. It will take four times the force in the spring to reopen if it be broken up this winter. I hear nothing of my arms that left Leavenworth September 15. Additional cavalry ordered to join have not reported their arrival. Would have saved us much loss to-day. The Indians lost beyond all precedent. I need prompt re-enforcements and repeating arms. I am sure to have, as before reported, an active winter, and must have men and arms. Every officer of this battalion should join it to-day. I have every teamster on duty, and, at best, one hundred and nineteen left at post. I hardly need urge this matter; it speaks for itself. Give me two companies of cavalry, at least, forthwith, well armed, or four companies of infantry, exclusive of what I need at Reno and Fort Smith. I did not overestimate my early application; a single company, promptly, will save the line; but our killed show that any remissness will result in mutilation and butchery beyond precedent. No such mutilation as that to-day is on record. Depend on it that this post will be hlde so long as a round or man is left.

Promptness is the vital thing. Give me officers and men. Only the new Spencer arms should be sent. The Indians desperate, and they spare none.

HENRY B. CARRINGTON,
Colonel Eighteenth Infantry, Commanding.

General U. S. GRANT.

Copy forwarded to Secretary 27th of December.

Official:

E. S. PARKER,
Colonel and A. D. C.

[Telegram.]

HEADQUARTERS ARMIES OF THE UNITED STATES,
Washington, December 27, 1866.

General Grant desires me to forward the accompanying telegram from General Cooke, and to say that General Cooke's action in Colonel Carrington's case has been approved; that General Cooke has been authorized to assign General Wessels as proposed, if he still deems it necessary; and also to suspend all leaves of absence.

C. B. COMSTOCK,
Brevet Brigadier General, A. D. C.

General W. T. SHERMAN, *St. Louis.*

Official copy:

E. S. PARKER,
Colonel and A. D. C.

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[Received at office United States military telegraph, War Department, Washington, D. C., December 26, 1866.

FROM OMAHA, *December* 26, 1866.

On the 21st instant, three (3) officers and ninety (90) men, cavalry and infantry, were massacred by Indians very near Fort Philip Kearney. Indians reported near three thousand, probably, from the completeness of the massacre. I order up four (4) companies of infantry and two (2) of cavalry from Laramie. I order Colonel Carrington to Caspar, headquarters of the new eighteenth. If not approved, I request the assignment of General Wessels at Reno, at his rank, to command the district. Just received at least five leaves of absence of officers of these troops. It is important that all these officers be ordered to join. Send direct in General Sherman's absence. Brevet Lieutenant Colonel Fetterman, Captain Brown, and Lieutenant Grammond are the officers killed. Not a man was left alive. Shall report by mail.

P. ST. GEO. COOKE,
Brevet Major General Commanding.

General J. A. RAWLINS, *Chief of Staff.*

Official:

E. S. PARKER,
Colonel and A. D. C.

[Telegram.]

HEADQUARTERS ARMIES OF THE UNITED STATES,
Washington, December 28, 1866.

General Grant requests that you will furnish him with any additional information you may receive in reference to the Fort Philip Kearney massacre, and if there has been fault in the matter, that you will have it strictly investigated.

C. B. COMSTOCK,
Brevet Brigadier General, A. D. C.

General W. T. SHERMAN, *St. Louis.*

Official:

E. S. PARKER,
Colonel and A. D. C.

[Received at office United States military telegraph, War Department, Washington, D. C., December 28, 1866—4. 45 p. m.]

ST. LOUIS, *December* 28, 1866.

GENERAL: Just arrived in time to attend the funeral of my adjutant general, Sawyer. I have given general instructions to General Cooke about the Sioux. I do not yet understand how the massacre of Colonel Fetterman's party could have been so complete. We must act with vindictive earnestness against the Sioux, even to their extermination, men, women, and children. Nothing less will reach the root of this case.

W. T. SHERMAN,
Lieutenant General.

U. S. GRANT.

Official:

E. S. PARKER,
Colonel and A. D. C.

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[Received at office United States military telegraph, War Department, Washington, D. C., December 29, 1866—3 p. m.]

ST LOUIS, *December* 29, 1866.

GENERAL: Your despatch of yesterday is received. I have another despatch from General Cooke, but nothing more definite as to the Fort Phil. Kearney massacre. A heavy snow storm is prevailing west of Omaha, and cuts off communication. I will have the matter fully investigated. In the mean time the Indians must be pursued and punished. General Cooke asks for a regiment of cavalry and one of infantry. I will see if the two new colored regiments, now organizing in General Hancock's department, can be made available by April 1; if not, I may have to ask some help from General Grant. Please ascertain of him if he has any troops he could spare this spring, as we must not overlook this case, but must pursue and punish at all hazards. The posts in that quarter are strong and well supplied; but it is reported the Sioux have three thousand (3,000) warriors, well armed, and their country is very difficult to operate in.

W. T. SHERMAN,
Lieutenant General.

General C. B. COMSTOCK, *Aide-de-Camp.*

Official:

E. S. PARKER,
Colonel and A. D. C.

[Special Orders No. 126.]

HEADQUARTERS DEPARTMENT OF THE PLATTE,
Omaha, Nebraska, December 26, 1866.

I. The following telegraphic orders of this date are hereby confirmed:

Brevet Brigadier General J. N. Palmer, commanding Fort Laramie, will send from the garrison of that post two companies of the second cavalry and four companies of the eighteenth infantry, to report to Brevet Brigadier General Wessels at Fort Reno.

II. Brevet Brigadier General Wessels will proceed with the re-enforcements and assume command of Fort Philip Kearney, and will also have authority to order such movements of the troops at Forts Reno and C. F. Smith as he may find necessary. The commanding officers at Forts Reno and C. F. Smith will obey all orders they may receive from Brevet Brigadier General Wessels.

III. Colonel H. B. Carrington, eighteenth United States infantry, will be relieved from the command of Fort Philip Kearney by Brevet Brigadier General Wessels, and will proceed immediately to Fort Casper, to which post the headquarters of the new eighteenth regiment have been heretofore ordered, and assume command of the post and that regiment.

IV. Brevet Lieutenant Colonel J. K. Mizner, commanding Fort McPherson, will send promptly two of his companies to take post at Fort Laramie.

V. Brevet Major General John Gibbon, commanding Fort Kearney, will send immediately one company of his command to take post at Fort McPherson.

VI. Captain George O. Sokalski, second United States cavalry, will proceed to-day, taking railroad and mail conveyances (and without stop) to Fort Laramie, Dakota Territory, reporting, on arrival, to the commanding officer of his regiment, with a view to joining his company, "C," with the least practicable delay.

The quartermaster's department will furnish the necessary transportation.

By command of Brigadier and Brevet Major General Cooke:

H. G. LITCHFIELD,
Brevet Major United States Army, A. D. C.

Official:

E. S. PARKER,
Colonel and A. D. C.

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[Telegram.]

FORT LARAMIE, *December* 27, 1866.

Orders to command at Fort Reno issued yesterday; the most violent, blinding storm now raging; there would be nothing gained by moving in such a snow storm; meantime all preparations which can be made in-doors are going on. One Indian messenger, just in to see the Indian agent, gives the following information: He says there is a grand coalition of Indian tribes north, to the number of ten thousand (10,000) to twelve thousand (12,000) fighting men; they are to make common cause against the whites; twelve (12) tribes are enumerated; story somewhat improbable, because tribes deadly hostile to each other are named, and such large numbers can't live together; not enough for them to eat in the country.

J. N. PALMER, *Commanding.*

Major H. G. LITCHFIELD,
Assistant Adjutant General.

Official:

E. S. PARKER,
Colonel and A. D. C.

HEADQUARTERS DEPARTMENT OF THE PLATTE,
Omaha, Nebraska, December 27, 1866.

GENERAL: I communicated yesterday by telegraph the disastrous news from Fort Philip Kearney. I enclose a copy of Colonel Carrington's telegram. An officer's letter states not one escaped. December 6, a severe skirmish occurred a few miles from that post, when Lieutenant Bingham, second cavalry, Sergeant Bowers, eighteenth infantry, were killed, and one sergeant and four privates were wounded, (and eight horses killed and wounded.) December 11, a private soldier was killed in sight of Fort Reno. I shall enclose several messages of instruction to Colonel Carrington as bearing on my subject-matter. Colonel C.'s statement that, with teamsters, he had, December 21, "but one hundred and nineteen men left in the fort," requires the statement that his December 10 report shows an aggregate present of four hundred and seventy-five.

My special orders to meet this occasion have been mailed to you, (as in usual course.) The six companies ordered forward will have the duties of re-enforcing, perhaps, Fort Reno—opening communication with C. F. Smith—re-enforcing that, besides Fort Philip Kearney. Deficiency of troops, the season, and amount of supplies at the upper posts, together, do not admit of more being sent. I hope they will do, and be able to carry out my telegraphic instructions to General Wessells, viz: "I expect you to make Reno safe, with power to forward mails, and to proceed with all other of the six companies ordered to you above. I hope regular communication can be kept with Fort C. F. Smith, and that we may be able to chastise Indians who may insult the posts; but with great caution. The officers are not equal to their stratagems in the broken ground they know so well; their numbers, it seems now certain, are also very superior."

Colonel Carrington is very plausible—an energetic, industrious man in garrison; but it is too evident that he has not maintained discipline, and that his officers have no confidence in him. Some of his acts, *officially reported*, such as shelling woods when Indians had appeared on a previous day may have, by this time, settled his appreciation by Indians.

Major Van Voast volunteered to lead a short winter expedition of some five companies, which I approved in the abstract; but when he communicated his

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information, plans, &c., I found it would be too far. (one hundred miles beyond Reno;) his force too small; all too uncertain for the risk and sufferings.

I have always understood that about the first grass the Indian ponies are unserviceable. I think it will be practicable to attack them about the 1st of May; that an additional regiment, both of cavalry and infantry, will be the least needed, and that they can be placed at Fort Laramie about the 1st of April. At that time they will be able to go by steam within about one hundred and fifty miles.

I think it will be practicable, as well as very important, that the immigration to Montana, our best new Territory, of arable land as well as precious metals, should not be interrupted by this best route.

You will observe, Colonel Carrington asks for Spencer arms for infantry. Some of his men have used them mounted, and have since felt the inferiority of the muzzle-loading arms. In fact, I have had an official report of a cattle guard excusing themselves for not firing on attacking Indians, that if they fired, the Indians having revolvers, they would be defenceless. They have revolvers, and it comes to this, that the savages are better armed than the troops. I therefore earnestly recommend that breech-loading Springfield muskets be now furnished for all these troops. I found that even the cavalry were generally unfurnished with revolvers; and a telegraphic requisition for a supply for five companies, with an implied consent of General Dyer, of November 6, has not yet resulted in their being received or heard from.

Very respectfully, your obedient servant,

P. ST. GEO. COOKE,
Brevet Major General Commanding.

General J. A. RAWLINS,
Chief of Staff of General Commanding, Washington.

HEADQUARTERS UNITED STATES ARMY,
February 1, 1867.

Official copy:

E. S. PARKER,
Colonel and A. D. C.

[Telegram.]

FORT PHILIP KEARNEY, *December* 21, 1866.

Do send me re-enforcements forthwith. Expedition now with my force is impossible; I risk everything but the post and its stores; I venture as much as any one can, but I have had to-day a fight unexampled in Indian warfare; my loss is ninety-four killed.

I have recovered forty-nine bodies, and thirty-five more are to be brought in in the morning, that have been found. Among the killed are Brevet Lieutenant Colonel Fetterman, Captain F. H. Brown, and Lieutenant Grammond. The Indians engaged were nearly three thousand, being apparently the force reported as on Tongue river, in my despatches of 5th November and subsequent thereto. This line, so important, can and must be held; it will take four times the force in the spring to reopen it, if it be broken up this winter. I hear nothing of my arms that left Leavenworth September 15. The additional cavalry ordered to join me has not reported; their arrival would have saved us much loss to-day.

The Indians lost beyond all precedent I need prompt re-enforcements and repeating arms. I am sure to have, as before reported, an active winter, and must have men and arms. Every officer of this battalion should join it. To-day I had every teamster on duty, and but one hundred and nineteen men left at

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post. I hardly need urge this matter; it speaks for itself. Give me two companies of cavalry, at least, forthwith, well armed, or four companies of infantry, exclusive of what is needed at Reno and Fort Smith.

I did not overestimate my early application of a single company. Promptness will save the line; but one hundred killed shows that any remissness will result in mutilation and butchery beyond precedent. No such mutilation as that to-day is on record. Depend upon it that the post will be held so long as a round or a man is left. Promptness is the vital thing. Give me officers and men only; the new Spencer arms should be sent; the Indians are desperate; I spare none and they spare none.

HENRY B. CARRINGTON,
Colonel Eighteenth Infantry.

Brevet Maj. Gen. P. ST. GEORGE COOKE,
Commanding Department.

HEADQUARTERS ARMY UNITED STATES,
February 1, 1867.

Official copy:

E. S. PARKER,
Colonel and A. D. C.

[Telegram.]

HEADQUARTERS DEPARTMENT OF THE PLATTE,
Omaha, Nebraska, September 27, 1866.

Your long telegram and others of 17th instant received; also copy of Major Van Voast's letter of September 22, to you. You must have corn before this in plenty. It is impossible to take the offensive this season, except you can manage to surprise Red Cloud in winter camps by infantry.

Two or three hundred infantry, with much suffering, perhaps, might thus accomplish more than two thousand troops in summer.

I have reason to believe there are whites with the Indians—never spare them. You can only defend yourself and trains and emigrants the best you can. There are so many conditions and circumstances connected with Fort C. F Smith I am ignorant of, I cannot order or advise; only at the worst you can recall its garrison, and in such case strengthen Reno.

Having one company of cavalry, you can probably dispense with your ninety-four horses, after mounting all the cavalrymen. They could be used for cavalry at Laramie. The same as to any useless horses at C. F. Smith and Reno.

General Myers telegraphs about Bailey's party and wages. Cartridges attended to.

P. ST. GEORGE COOKE,
Brevet Major General Commanding.

Colonel H. B. CARRINGTON,
Fort Philip Kearney, Dakota Territory.

Official:

E. S. PARKER,
Colonel and A. D. C.

HEADQUARTERS DEPARTMENT OF THE PLATTE,
Omaha, Nebraska, December 28, 1866.

GENERAL: By direction of the general commanding you will, upon arrival at Fort Philip Kearney, make a thorough investigation of the circumstances connected with the massacre on the 21st instant, near that post, and make full re-

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port of the same to these headquarters. While this investigation is considered important, you are not to permit its prosecution to interrupt military duties of still greater moment.

I have the honor to be, very respectfully, your obedient servant,

H. G. LITCHFIELD,
Brevet Major U. S. A., Aide-de-Camp.

Brevet Brigadier General H. W. WESSELS,
United States Army, Commanding Mountain District.

Official:

———— ————,
Colonel and A. D. C.

WASHINGTON, *January* 14, 1867.

General Augur left last evening for Omaha, via St. Louis. Are you having an investigation into the Fort Phil. Kearney massacre? A report will probably be called for, and it is important that we should know all that can be learned about it as soon as possible.

U. S. GRANT, *General.*

Lieutenant General W. T. SHERMAN,
St. Louis, Missouri.

Official:

E. S. PARKER,
Colonel and A. D. C.

HEADQUARTERS DEPARTMENT OF THE PLATTE,
Omaha, Nebraska, January 14, 1867.

GENERAL: I have received to-day Lieutenant General Sherman's despatch of this date, which, after giving General Grant's, says to me: "General, I want a thorough investigation and report of the whole matter; and to fulfil General Grant's inquiries, I wish you to send me by mail, at once, your (my) version of the affair, based on the facts known, and your (my) judgment of the probabilities."

December 28, I ordered Brevet Brigadier General Wessels, then assigned to command of the district including Fort Phil. Kearney, to make a "thorough investigation," as now required. A copy I enclose. It was sent by telegraph to Fort Laramie, the nearest available office, 157 miles from Fort Reno, where General Wessels was in command, 66 miles this side of Fort Phil. Kearney. He could make no investigation before reaching Fort Phil. Kearney. His march there depended on the arrival of re-enforcements from Fort Laramie, ordered by telegraph December 26, but which, owing to "blinding snow-storms," &c., only marched January 3, and it is believed arrived at Fort Reno January 11th, instant. This recital shows the impossibility of obtaining from so remote a post, with communication temporarily suspended, reports so soon as desired and expected. The law forbids me to order a court of inquiry, and I am not aware of my power to order any other investigation than I have already done.

I have just received telegram from Fort Laramie, dated 12th, stating a mail carrier had arrived from Fort Philip Kearney; the first communication since the day of the massacre, which brought Colonel Carrington's report, (which I mailed to you,) and it brings me nothing. I have telegraphed an inquiry for information to General Palmer. Thus uninformed, I have no "version" of the affair. It remains to me to comply with the call for my "judgment of the probabilities." The probabilities must be founded on my orders, Colonel Carrington's,

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reports, and my knowledge of the previous events, and the conduct of the commander and the troops.

First, I enclose copies (A and B) of instructions of September 27 and November 12, 1866. Colonel Carrington has, before December 21, made no expedition against Indians; all his skirmishes have been with war parties attacking his supply trains, or appearing in sight of the fort. I am informed that on these occasions it was the custom of officers and men to sally forth, mounted or afoot, much at their discretion; and in confirmation of this, I enclose (C) a report of Brevet Lieutenant Colonel Fetterman, of the affair of December 6. He says, when his command of thirty men reached the wood party, surrounded by Indians four miles from the post, he was joined by Captain F. H. Brown, eighteenth United States infantry, with a couple of mounted infantry, who had already started for the relief of the train, and was overtaken by Second Lieutenant A. H. Wands, eighteenth United States infantry.

I enclose, finally, an important account (D) which would be supposed to have important bearing, a despatch from Colonel Carrington of December 19, two days before the massacre, indicating a detachment and expedition, and proving that he felt strong enough to take the offensive.

The size and composition of the party massacred indicate that they were all mounted cavalry and infantry to just the number of horses in hands of infantry. All my suggestions of the offensive in winter to Colonel Carrington laid stress upon using infantry. Assuming, then, that Colonel Carrington did not disobey in spirit [how about the infantry?] and in letter my instructions as to expeditions, my judgment of the probabilities is, that on the 21st December, hostile Indians, in number between 1,500 and 3,000, formed an ambush within five or six miles of Fort Phil. Kearney; that they sent a party to decoy the garrison; that all the available horses (which I believe were kept saddled) were mounted, and that hastily and irregularly they sallied out to engage or pursue; that the Indians skilfully managed to lead the pursuit of the whole into ground selected as forbidding escape; and that there, by so greatly superior numbers, the troops were surrounded and massacred—no quarter asked or given.

I am, sir, very respectfully,

P. ST. GEORGE COOKE,
Brevet Major General Commanding

Brevet Major General W. A. NICHOLS,
A. A. Gen. Division of Missouri, St. Louis, Mo.

Official:

_____,
Colonel and A. D. C.

[Received at office United States military telegraph, War Department, Washington, D. C., January 17, 1867—4.30 p. m.]

ST. LOUIS, MO., *January* 17, 1867.

General U. S. GRANT:

The subjoined telegram has this moment been received:

"*Omaha, January* 7, 1867.—Lieutenant General W. T. Sherman: Following despatch just received: 'Fort Phil. Kearney, January 4.—To Adjutant General, Department of the Platte: The mail takes full report of fight December 21 All bodies received. Severe cold and drifting snows, with mercury once at twenty-two degrees below zero. Have so far prevented further Indian depredations. Their losses may also explain this. The facts disclosed show that the detachment was several miles from the wood train they were sent to relieve, and pushed over Lodge Trail ridge in order of pursuit, after orders three

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times given not to cross that ridge. I found Lieutenant Grummond's body; also, Fetterman and Brown—evidently shot each other. Signed, H. B. Carrington, Colonel eighteenth infantry.' Respectfully, P. St. George Cooke, Brevet Major General."

W. T. SHERMAN,
Lieutenant General Commanding.

Official copy:

E. S. PARKER,
Colonel and A. D. C.

HEADQUARTERS MILITARY DIVISION OF THE MISSOURI,
St. Louis, Missouri, January 19, 1867.

GENERAL: I now have the honor to send you General Cooke's letter of the 14th, with its enclosures, which is the nearest approach to accounting for the unhappy affair at Fort Phil. Kearney. I have already transmitted a copy of a telegraphic despatch from General Cooke, notifying me that a full report is on its way by the regular mail from Fort Laramie.

Until the reports of Colonel Carrington and General Wessels are on hand, I cannot advise either a formal court-martial or court of inquiry.

With great respect,

W. T. SHERMAN,
Lieutenant General Commanding.

General J. A. RAWLINS,
Chief of Staff, Washington, D. C.

Official copy:

———— ————,
Colonel and A. D. C.

HEADQUARTERS MILITARY DIVISION OF THE MISSOURI,
St. Louis, January 28, 1867.

DEAR GENERAL: Knowing your anxiety to hear something definite and comprehensible of the Fort Phil. Kearney matter, I have had a copy made of a letter from a sergeant there to a clerk in this office, which seems to explain the case fully. As soon as their official report comes I will send it also.

Yours, in haste,

W. T. SHERMAN,
Lieutenant General.

General U. S. GRANT,
General United States Army.

Extract from a private letter received January 28, 1867.

FORT PHIL. KEARNEY, DAKOTA TERRITORY,
December 28, 1866.

Yours of November 28 came to hand. I was pleased to hear from a friend in the civilized world. We have passed through some trying and even heart-rending scenes within the last twenty days.

On the 6th instant we had an engagement with the Indians about three miles from the fort. Lieutenant Bingham, of the second cavalry, and Sergeant Bowers, of E company, second battalion eighteenth infantry, were killed and

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scalped. On the 21st instant, the timber train, while on its daily trip to the mountains, under Corporal Legrow, of E company, was attacked by Indians. Detachments from the different companies of the garrison, some mounted and some on foot, the whole being under the command of Captain and Brevet Lieutenant Colonel Fetterman, assisted by Captain Brown and Lieutenant Grummond, proceeded from the fort to protect the train. The command amounted to three officers, eight sergeants, ten corporals, and sixty-three privates. Those from E company were Sergeant Morgan, Corporal Quinn, and four privates. Upon their leaving the fort the colonel gave orders for the detachment to protect the train, but to remain in supporting distance of the garrison; but, contrary to these orders, they pursued the Indians (who immediately left the train without inflicting any damage) for some six miles, to the main force of the enemy, which lay in ambush. The Indians perceiving, as I suppose, that they had the advantage in numbers, immediately rushed from their places of concealment, and succeeded in cutting our men off from any communication with the post, and the scene which followed you and all others may imagine; but I cannot describe it, *as not a man was left to tell the tale.* All were butchered and scalped, their bodies gashed, chopped with knives and tomahawks, stripped of every article of clothing, and then (perhaps while in the agonies of death) shot through and through with arrows. Poor Sergeant Morgan was shot through the breast and scalped; his body was full of arrows. The wood train returned without further trouble, and the colonel, becoming alarmed at the absence of the command, ordered a second detachment, under Captain Powell, to their relief. Captain Powell followed their trail across a high bluff, into a valley, where, to the surprise and mortification of his command, he found, not those brave and noble hearts who a few hours previous had left the fort with buoyant spirits, thirsting for revenge, but eighty-four mangled and disfigured corpses, lying naked on the ground. The Indians, on the completion of their hellish work, departed, taking clothing, arms, and accoutrements, with their dead and wounded, for it is not to be supposed that eighty-four armed soldiers could be killed, not one escaping, and that, too, in daylight and open ground, without some loss to the enemy.

Captain Powell sent a messenger to the garrison, informing the colonel, stating he would await the arrival of wagons to bring on the bodies. The report went like a death-knell to the heart of every soldier. We could hardly believe it, until the arrival of Captain Powell's detachment and return of the wagons, bringing forty-five dead bodies. The remaining thirty-six were not brought in until the next morning.

The severity of the weather, and probability of an immediate attack upon the fort, compelled us to bury our dead in trenches, without ceremony or military honors. The same evening Colonel Carrington sent citizen couriers to Laramie with despatches to department headquarters for re-enforcements; the mail has arrived since forwarding the despatch, but no re-enforcements. We have been compelled to stop all work. The snow is deep, and the weather so intensely cold that the guards have to be relieved every half hour.

There are six companies here, and but five officers. Lieutenant Bisbee has been detached to department headquarters. Lieutenant Grummond, who was in command of the company, was killed. I have had to receipt temporarily to the quartermaster for clothing and other necessary stores, some of which had been previously invoiced to the company, but not receipted for by the company commander. This looks rather bad on the part of the government, when first sergeants have to be responsible for duties pertaining only to commissioned officers; but such are the chances of war in times of peace. Corporal Legrow has been made sergeant, *vice* Morgan deceased; Legrow is a faithful and deserving soldier. A few days before the massacre I was released from confinement, there being no one that could do anything with the company. I was just in time to have my hands full, as usual.

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It is now past tattoo; the night is cold; the men are sleeping in their clothes, and accoutrements on. Indian signals have been seen, and we don't know what hour the post may be attacked. Self and two soldiers are keeping watch so as to awake the men in case of alarm. At midnight I shall have Sergeant Clark and three others to relieve us. So you can imagine the state of affairs here.

I have seen an article in a Chicago paper stating that the commissioners on Indian affairs had received intelligence that reports of hostilities on the frontiers were without foundation and were exaggerated. The Indian commissioners are furnishing Indians with arms and ammunition to hunt with, and they are using them to murder white men. Those commissioners are a nuisance to the government. We want men and arms on these plains to exterminate this accursed race of savages. We are fighting a foe that is the devil. In your last you spoke about some newspapers which you had sent me. I did not get them. Please write soon, and pray God to hasten the day when I shall get out of this horrible place.

Good-bye; this may be my last letter; should it reach you, don't forget your friend.

HEADQUARTERS UNITED STATES ARMY,
February 2, 1867.

Official copy:

E. S. PARKER,
Colonel and A. D. C.

[Telegram.]

HEADQUARTERS DEPARTMENT OF THE PLATTE,
Omaha, Nebraska, August 11, 1866.

Two companies second cavalry have been ordered to assist in the protection of the road. You are authorized to enlist not to exceed fifty Indian scouts—pay and allowances of cavalry soldiers; let them use the ponies if you can't do better. Be very cautious; don't undertake unnecessary, risky detachments.

P. ST. GEORGE COOKE,
Brigadier General Commanding.

Colonel H. B. CARRINGTON,
Commanding Fort C. F. Smith, (via Laramie.)

Official:

E. S. PARKER,
Colonel and A. D. C.

[Telegram.]

HEADQUARTERS DEPARTMENT OF THE PLATTE,
Omaha, Nebraska, September 27, 1866.

Your long telegram and others of the 17th instant received. Also copy of Major Van Voast's letter of September 22, to you. You must have corn before this, in plenty. It is impossible to take the offensive this season, except you can manage to surprise Red Cloud's bands in winter camps, by infantry. Two or three hundred infantry, with much suffering, perhaps, might thus accomplish more than two thousand troops in summer.

I have reason to believe there are whites with the Indians; never spare them. You can only defend yourself and trains and emigrants the best you can. There are so many conditions and circumstances connected with Fort C. F. Smith I am ignorant of, I cannot order or advise, only at the worst

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you can recall its garrison, and in such case strengthen Reno. Having one company of cavalry, you can probably dispense with your ninety-four horses, after mounting all the cavalrymen. They could be used for cavalry at Laramie. The same as to any useless horses at C. F. Smith and Reno.

General Myers telegraphs about Bailey's party and wages. Cartridges attended to.

P. ST. GEORGE COOKE,
Brevet Major General Commanding.

Colonel H. B. CARRINGTON,
Fort Phil. Kearney, Dakota Territory.

Official:

_____,
Colonel and A. D. C.

B.

HEADQUARTERS DEPARTMENT OF THE PLATTE,
Omaha, Nebraska, November 12, 1866.

COLONEL: You are hereby instructed, so soon as the troops and stores are covered from the weather, to turn your attention to the possibility of striking the hostile bands of Indians by surprise in their winter camps, as intimated in telegram of September 27, ultimo, from these headquarters. An extraordinary effort in winter, when the Indian horses are unserviceable, it is believed, should be followed by more success than can be accomplished by very large expeditions in summer, when the Indians can so easily scatter into deserts and mountain hiding places, almost beyond pursuit.

Four companies of infantry will be available, besides some cavalry; you have a large arrear of murderous and insulting attacks by the savages upon emigrants, trains, and troops to settle; and you are ordered, if there prove to be any promise of success, to conduct, or to send under another officer, such an expedition. Major Van Voast has volunteered, and has been instructed to make such a one in December, from Fort Laramie, Dakota Territory.

By command of Brevet Major General Cooke:

H. G. LITTLEFIELD,
Brevet Major U. S. Army, A. D. C.

Colonel H. B. CARRINGTON, *Eighteenth U. S. Infantry,*
Commanding Fort Phil. Kearney, Dakota Ter.

Official:

_____,
Colonel and A. D. C.

FORT PHILIP KEARNEY, DAKOTA TERRITORY,
December 7, 1866.

CAPTAIN: In compliance with your communication of to-day I have the honor to submit to the colonel commanding the post the following report of the operations of my party on the 6th instant, while in pursuit of Indians who had attacked the wood party:

In obedience to the instructions of the colonel commanding, I took command of the cavalry, numbering about thirty men, under the immediate command of Second Lieutenant H. S. Bingham, second United States cavalry, and proceeded to the wood train, about four miles from the post, which I found corralled and surrounded by Indians. There I was joined by Captain Fred. H. Brown, eighteenth United States infantry, and a couple of mounted infantry, who had already

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started for the relief of the train, and was overtaken by Second Lieutenant A. H. Wands, eighteenth United States infantry, and started in pursuit of the Indians, who retired before us for five miles, when, arriving in a valley through which passed the Big Horn road, the Indians offered us battle. In the most unaccountable manner the cavalry turned and commenced a retreat, which I, assisted by Captain Brown and Lieutenant Wands, used every exertion to check. The Indians, corralling and closing around us, it was plain the retreat, if continued, would be a rout and massacre. We, therefore, with the two mounted infantrymen who were with us, dismounted from our horses, and, continuing our exertions, succeeded in calling back a few of the cavalry, which swelled our number to about fourteen men, with which we turned and fought the enemy, who numbered about one hundred, surrounding us on both sides. While thus engaged, the mounted infantry which had started out on the Big Horn road, under the command of Colonel Carrington, came in sight, and passed along the road about half a mile to our right, with the purpose, I hoped, of getting to the rear of the enemy, who had a low ridge at their back. The Indians, seeing the approach of the mounted infantry, retired, we following; but finding that their rear was not attacked, a large number of them returned. After fighting about twenty minutes longer, they again retired, we in pursuit. Not being able to overtake them, I concluded to take the road and join Colonel Carrington's party, which we soon found on the road a short distance in advance. I cannot speak too highly of the conduct of Captain Brown and Lieutenant Wands, without whose assistance I fear we must have suffered serious disaster. Lieutenant Bingham, while retiring with the major part of the cavalry, encountered the mounted infantry as they were descending the road, and joined them, leaving my party of about fourteen men to oppose a hundred Indians. I cannot account for this movement on the part of an officer of such unquestionable gallantry as Lieutenant Bingham; but it is presumed that being unable to check the retreat of his men, he deemed it most prudent to hold his men in hand as much as possible, and fall back on the mounted infantry who were expected down the road.

Our casualties at this time were one man wounded, two horses wounded, and one killed.

Three Indian ponies were shot, and two men were seen carried from the field.

I am, sir, very respectfully, your obedient servant,

WM. J. FETTERMAN,
Capt. Eighteenth U. S. Infantry, Brevet Lieut. Col. U. S. A.

Brevet Captain WM. H. BISBIE,
Eighteenth Infantry, Post Adjutant Fort Philip Kearney, D. T.

Official:

———— ————,
Colonel and A. D. C.

[Telegram.]

PHIL. KEARNEY, D. T., *December* 19, 1866.

A. A. A. GENERAL, *Department of the Platte:*

No special news since last report. Indians appeared to-day and fired on wood train, but were repulsed. They are accomplishing nothing, while I am perfecting all details of the post and preparing for active movements.

HENRY B. CARRINGTON,
Col. 18th U. S. Infantry, Commanding Post.

Official:

———— ————,
Colonel and A. D. C.

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Views of Commissioner Lewis V. Bogy in relation to the future policy to be pursued by the government for the seetlement of the Indian question.

DEPARTMENT OF THE INTERIOR, OFFICE INDIAN AFFAIRS,
Washington, D. C., February 11, 1867.

I will submit to you, as briefly as possible consistent with the importance of the subject, my views of the policy which should be pursued to effect a peaceable and reasonably speedy settlement of the Indian question.

That great trouble exists at this time between the whites and Indians is beyond any doubt; and it would indeed be surprising if this were not so, owing to the sudden overflowing of the whites throughout the Indian country, caused by the discovery of gold and silver and the rapid settlement of all the western Territories. The Indian's home and his hunting-grounds have been invaded, and the result is that he is brought face to face and in daily contact with the whites. It is very evident that as the wants of the Indians and the whites are entirely different, this leads to conflict. The question presented now is, how can this be avoided? It is very plain that there are but two ways to effect this. One is to destroy these people as speedily as possible, and the other to drive them out of the way of white settlements and the routes of travel. To effect the former, besides its inhumanity, will cost millions of dollars, thousands of lives of our people, and a general Indian war throughout the country between the Missouri river and the Rocky mountains, which would stop the settlement of all our western Territories, and, to a great extent, destroy Kansas and Nebraska. I desire to avoid the latter result, and this has been my policy since I have assumed the duties of this office. I believe this entire population can be withdrawn on reservations out of the way of the whites, where, in a few years, they could be made, to a great extent, self-sustaining. To accomplish this object in a speedy and proper manner more definite information is needed by this bureau than is now in its possession. To obtain this information my idea is to appoint separate commissioners of first-rate men to visit each State and Territory having an Indian population, with instructions to these commissioners to master the Indian subject in the State or Territory they are sent to; that is, ascertain the number of Indians, their status socially, and in every other way, find out if they can be aggregated on one or two reservations, select the section of country where this reservation should be, how much should be paid annually to them in the way of annuity until they can support themselves, what kind of goods should be furnished, if any, how much stock of cattle and sheep, and indeed to master the subject fully and thoroughly, and report the result of their labors, say next fall, for final action.

It cannot be doubted that a commission of good men, properly selected, could go, for instance, to Arizona or New Mexico, and on the ground study this question and report a plan by which the Indian question in that locality would be forever settled. The same thing can be done with all the other States and Territories having this population.

I have thought a great deal on this subject, and I am confident it can be made to succeed. To carry out this plan an appropriation is necessary. It will take some eight or ten different commissions, and the persons going out should be reasonably well paid, and ample time allowed them to investigate into the subject. I would, therefore, ask for an appropriation of one hundred and fifty thousand dollars. Some $20,000 of this money, however, to be used for holding an Indian council with the Comanches, Kiowas, Cheyennes, Arapahoes, Lipans, Mescaleros, and other Indians roaming in the southern and western part of Kansas, the northern extremity of Texas, the eastern line of New Mexico, and the 98th parallel of longitude. I have no doubt that by holding a council with these people at an early day, say in the month of May, they can be withdrawn from the settled portions of Kansas and the great routes of travel leading to New Mexico.

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and the proposed line of railroad now being built known as the Atlantic and Pacific railroad.

This council should be held this spring, as it is of absolute necessity, if we desire to withdraw these Indians from this line of road.

If it did not render this communication too lengthy, I think I could demonstrate that all our Indian tribes could easily be withdrawn on to reservations. There is certainly country enough for them and for us. I would propose to make the reservations quite large, for the reason, first, that it costs nothing to make them large, as the title is only possessory, and these lands will revert back to our posterity as these Indians pass away, and as the present generation has more land than it can possibly use. I repeat, it will cost nothing to make them large, yet by making them large you keep away from the people these white population, and you obtain ample territory to raise their herds of cattle and sheep, also sufficient grounds for cultivation.

Permit me, therefore, to request you to lay this communication before the two houses of Congress at as early a day as possible, so as to obtain action during this session, if the views herein expressed are favorably considered by this body.

The appropriation of $150,000 is necessary to carry out these views.

I am, with great respect, your obedient servant,

L. V. BOGY,
Commissioner.

Hon. O. H. BROWNING,
Secretary of the Interior, Washington City.

Letter from the Secretary of War, directed to the Chairman of the Committee on Military Affairs, transmitting a communication from General Grant on Indian Affairs.

WAR DEPARTMENT,
Washington City, February 1, 1867.

SIR: I have the honor to transmit herewith, for the consideration of the committee, a copy of a communication on Indian affairs received this day from General Grant.

Very respectfully, sir, your obedient servant,

EDWIN M. STANTON,
Secretary of War.

Hon. R. C. SCHENCK,
Chairman of the Military Committee,
House of Representatives.

HEADQUARTERS ARMIES OF THE UNITED STATES,
Washington, D. C., February 1, 1867.

SIR: The enclosed papers, just received from General Sherman, are respectfully forwarded and your special attention invited. They show the urgent necessity for an immediate transfer of the Indian Bureau to the War Department, and the abolition of the civil Indian agents and licensed traders. If the present practice is to be continued, I do not see that any course is left open to us but to withdraw our troops to the settlements and call upon Congress to provide means and troops to carry on formidable hostilities against the Indians until all the Indians or all the whites on the great plains and between the settlements on the Missouri and the Pacific slope are exterminated.

The course General Sherman has pursued in this matter, in disregarding

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the permits of Mr. Bogy and others, is just right. I will instruct him to enforce his order until it is countermanded by the President or yourself.

I would also respectfully ask that this matter be placed before the President, and his disapproval of licensing the sale of arms to Indians asked.

We have treaties with all tribes of Indians from time to time. If the rule is to be followed that all tribes with which we have treaties and pay annuities can procure such articles without stint or limit, it will not be long before the matter becomes perfectly understood by the Indians, and they avail themselves of it to equip perfectly for war. They will get the arms either by making treaties themselves or through tribes who have such treaties.

I would respectfully recommend that copies of the enclosed communications be furnished to the military committee of each house of Congress.

Very respectfully, your obedient servant,

U. S. GRANT, *General.*

Hon. E. M. STANTON,
Secretary of War.

HEADQUARTERS MILITARY DIVISION OF THE MISSOURI,
St. Louis, Missouri, January 26, 1867.

GENERAL: I have this moment received your letter of January 22, about the sale of arms and ammunition to Indians by traders and agents.

We, the military, are held responsible for the peace of the frontier, and it is an absurdity to attempt it if Indian agents and traders can legalize and encourage so dangerous a traffic. I regard the paper enclosed, addressed to Mr. D. A. Butterfield, and signed by Charles Bogy, W. R. Irwin, J. H. Leavenworth, and others, as an outrage upon our rights and supervision of the matter, and I now authorize you to disregard that paper and at once stop the practice, keeping the issues and sales of arms and ammunition under the rigid control and supervision of the commanding officers of the posts and districts near which the Indians are. If the Indian agents may, without limit, supply the Indians with arms, I would not expose our troops and trains to them at all, but would withdraw our soldiers, who already have a herculean task on their hands.

This order is made for this immediate time, but I will, with all expedition, send these papers, with a copy of this, to General Grant, in the hope he will lay it before the President, who alone can control both the War and Indian Departments, under whom, at present, this mixed control of the Indian question now rests in law and practice.

Your obedient servant,

W. T. SHERMAN,
Lieutenant General Commanding.

General W. S. HANCOCK,
Commanding Department of the Missouri,
Fort Leavenworth, Kansas.

FORT ZARA, KANSAS,
November 15, 1866.

SIR: You having requested verbally to be informed in regard to your right to sell arms and ammunition to Indians, we have to state as follows:

You, as an Indian trader, licensed for that purpose by the United States government, are authorized to trade or sell arms and ammunition to any Indians

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that are at peace with, and receiving annuities from, the United States government.

This rule, of course, applies to any other regularly licensed Indian traders, as well as yourself.

CHAS. BOGY,
W. R. IRWIN,
Special United States Indian Agents.
J. H. LEAVENWORTH,
Agent for Kiowas and Comanche Indians of Upper Arkansas.
WM. H. BRENT,
E. W. WYNKOOP,
U. S. Indian Agents, Upper Arkansas Agency.

A true copy:

HENRY ASBURY,
Capt. Third U. S. Infantry, Bvt. Maj. U. S. A., Com'dg.

Mr. D. A. BUTTERFIELD, *Present.*

Letter from the Secretary of War, addressed to Mr. Schenck, Chairman of the Committee on Military Affairs, transmitting a report by Colonel Parker on Indian affairs.

WAR DEPARTMENT,
Washington City, January 25, 1867.

SIR: I have the honor to transmit herewith a report on Indian affairs, prepared by Colonel Parker, aide-de-camp, for the information of your committee.

Very respectfully, sir, your obedient servant,

EDWIN M. STANTON,
Secretary of War.

Hon. R. C. SCHENCK,
Chairman of Military Committee, House of Representatives.

HEADQUARTERS ARMIES OF THE UNITED STATES,
Washington, D. C., January 24, 1867.

GENERAL: In compliance with your request, I have the honor to submit the following proposed plan for the establishment of a permanent and perpetual peace, and for settling all matters of differences between the United States and the various Indian tribes.

I am, very respectfully, your obedient servant,

E. S. PARKER,
Colonel and Aide-de-Camp.

General U. S. GRANT,
Commanding Armies of the United States.

First. The transfer of the Indian bureau from the Interior Department back to the War Department, or military branch of the government, where it originally belonged, until within the last few years.

The condition and disposition of all the Indians west of the Mississippi river, as developed in consequence of the great and rapid influx of immigration by reason of the discovery of the precious metals throughout the entire west, renders it of the utmost importance that military supervision should be extended over the Indians. Treaties have been made with a very large number of the tribes, and generally reservations have been provided as homes for them. Agents ap-

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pointed from civil life have generally been provided to protect their lives and property, and to attend to the prompt and faithful observance of treaty stipulations. But as the hardy pioneer and adventurous miner advanced into the inhospitable regions occupied by the Indians in search of the precious metals, they found no rights possessed by the Indians that they were bound to respect. The faith of treaties solemnly entered into were totally disregarded, and Indian territory wantonly violated. If any tribe remonstrated against the violation of their natural and treaty rights, members of the tribe were inhumanly shot down and the whole treated as mere dogs. Retaliation generally followed, and bloody Indian wars have been the consequence, costing many lives and much treasure. In all troubles arising in this manner the civil agents have been totally powerless to avert the consequences, and when too late the military have been called in to protect the whites and punish the Indians; when if, in the beginning, the military had had the supervision of the Indians, their rights would not have been improperly molested, or if disturbed in their quietude by any lawless whites, a prompt and summary check to any further aggressions could have been given. In cases where the government promises the Indians the quiet and peaceable possession of a reservation, and precious metals are discovered or found to exist upon it, the military alone can give the Indians the needed protection and keep the adventurous miner from encroaching upon the Indians until the government has come to some understanding with them. In such cases the civil agent is absolutely powerless.

Most of Indian treaties contain stipulations for the payment annually to Indians of annuities, either in money or goods, or both, and agents are appointed to make these payments whenever government furnishes them the means. I know of no reason why officers of the army could not make all these payments as well as civilians. The expense of agencies would be saved, and, I think, the Indians would be more honestly dealt by. An officer's honor and interest is at stake, which impels him to discharge his duty honestly and faithfully, while civil agents have none of those incentives, the ruling passion with them being generally to avoid all trouble and responsibility, and to make as much money as possible out of their offices.

In the retransfer of this bureau I would provide for the complete abolishment of the system of Indian traders, which, in my opinion, is a great evil to Indian communities. I would make government the purchaser of all articles usually brought in by Indians, giving them a fair equivalent for the same in money or goods at cost prices. In this way it would be an easy matter to regulate the sale or issue of arms and ammunition to Indians, a question which of late has agitated the minds of the civil and military authorities. If the entry of large numbers of Indians to any military post is objectionable, it can easily be arranged that only limited numbers shall be admitted daily.

By an act approved March 16, 1802, it was made the duty of military agents "to purchase, receive, and forward to their proper destination all military stores and other articles for the troops in their respective departments, and all goods and annuities for the Indians which they may be directed to purchase or which shall be ordered into their care by the Department of War." In the retransfer of the Indian bureau this act, so far as it relates to the Indians, could be revived, as well as the act of June 30, 1834, which authorizes "the President to require any military officer of the United States to execute the duties of Indian agent."

With reference to the discontinuance of the present Indian trading system, the arguments set forth in President Jefferson's confidential message, dated January 18, 1803, seem more cogent now than at that time. He says: "The Indian tribes residing within the limits of the United States have, for a considerable time, been growing more and more uneasy at the constant diminution of the territory they occupy, although effected by their own voluntary sales; and the policy has long been gaining strength with them of refusing absolutely all

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further sales on any conditions; insomuch that at this time it hazards their friendship and excites dangerous jealousies and perturbations in their minds to make any overture for the purchase of the smallest portions of their land. A very few tribes only are not yet obstinately in these dispositions. In order peaceably to counteract this policy of theirs, and to provide an extension of territory which the rapid increase of our numbers will call for, two measures are deemed expedient: first, to encourage them to abandon hunting, to apply to the raising stock, to agriculture, and domestic manufactures, and thereby prove to themselves that less land and labor will maintain them in this better than in their former mode of living. The extensive forests necessary in the hunting life will then become useless, and they will see the advantage in exchanging them for the means of improving their farms and of increasing their domestic comforts. Secondly, to multiply trading-houses among them, and to place within their reach those things which will contribute more to their domestic comfort than the possession of extensive but uncultivated wilds. Experience and reflection will develop to them the wisdom of exchanging what they can spare and we want for what we can spare and they want. In leading them thus to agriculture, to manufactures, and civilization, in bringing together their and our settlements, and in preparing them ultimately to participate in the benefits of our government, I trust and believe we are acting for their greatest good. At these trading-houses we have pursued the principles of the act of Congress which directs that the commerce shall be carried on liberally, and requires only that the capital stock shall not be diminished. We consequently undersell private traders, foreign and domestic; drive them from the competition, and thus, with the good will of the Indians, rid ourselves of a description of men who are constantly endeavoring to excite in the Indian mind suspicions, fears, and irritations towards us. A letter now enclosed shows the effect of our competition on the operations of the traders; while the Indians, perceiving the advantage of purchasing from us, are soliciting generally our establishment of trading-houses among them."

The Indian department has increased to such magnitude since this was written that every argument advanced has a tenfold more force than at that date. And had the policy then advocated been adopted and steadily pursued to this day, there is no doubt that great good would have resulted, bloody wars been averted, and many valuable lives saved. It is believed that a return now to the wise and humane measures advocated by the fathers of the republic would still result beneficially to the government and the Indian races. Some definite and permanent policy should be adopted, and circumstances made to bend to its establishment.

In 1793 General Washington, then President, remarks, in a special message to Congress, that "next to a vigorous execution of justice on the violators of peace, the establishment of commerce with the Indian nations, on behalf of the United States, is most likely to conciliate their attachment. But it ought to be conducted without fraud, without extortion, with constant and plentiful supplies; with a ready market for the commodities of the Indians, and a stated price for what they give in payment and receive in exchange. Individuals will not pursue such a traffic unless they be allured by the hope of profit; but it will be enough for the United States to be reimbursed only."

It is greatly to be regretted that this beneficent and humane policy had not been adhered to, for it is a fact not to be denied that at this day Indian trading licenses are very much sought after, and when once obtained, although it may be for a limited period, the lucky possessor is considered as having already made his fortune. The eagerness also with which Indian agencies are sought after, and large fortunes made by the agents in a few years, notwithstanding the inadequate salary given, is presumptive evidence of frauds against the Indians and the government.

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Many other reasons might be suggested why the Indian department should altogether be under military control, but a familiar knowledge of the practical workings of the present system would seem to be the most convincing proofs of the propriety of the measure. It is pretty generally advocated by those most familiar with our Indian relations, and so far as I know the Indians themselves desire it. Civil officers are not usually respected by the tribes, but they fear and regard the military, and will submit to their counsels, advice, and dictation when they would not listen to a civil agent.

Second. The next measure I would suggest is the passage by Congress of a plan of territorial government for the Indians, as was submitted last winter, or a similar one. When once passed it should remain upon the statute-books as the permanent and settled policy of the government. The boundaries of the Indian territory or territories should be well defined by metes and bounds, and should remain inviolate from settlement by any except Indians and government employés.

The subject of the improvement and civilization of the Indians, and the maintenance of peaceful relations with them, has engaged the serious consideration of every administration since the birth of the American republic; and, if I recollect aright, President Jefferson was the first to inaugurate the policy of the removal of the Indians from the States to the country west of the Mississippi; and President Monroe, in furtherance of this policy, recommended that the Indians be concentrated, as far as was practicable, and civil governments established for them, with schools for every branch of instruction in literature and the arts of civilized life. The plan of removal was adopted as the policy of the government, and, by treaty stipulations, affirmed by Congress; lands were set apart for tribes removing into the western wilds, and the faith of a great nation pledged that the homes selected by the Indians should be and remain their homes forever, unmolested by the hand of the grasping and avaricious white man; and, in some cases, the government promised that the Indian homes and lands should never be incorporated within the limits of any new State that might be organized. How the pledges so solemnly given and the promises made were kept, the history of the western country can tell. It is presumed that humanity dictated the original policy of the removal and concentration of the Indians in the west to save them from threatened extinction. But to-day, by reason of the immense augmentation of the American population, and the extension of their settlements throughout the entire west, covering both slopes of the Rocky mountains, the Indian races are more seriously threatened with a speedy extermination than ever before in the history of the country. And, however much such a deplorable result might be wished for by some, it seems to me that the honor of a Christian nation and every sentiment of humanity dictate that no pains should be spared to avert such an appalling calamity befalling a portion of the human race. The establishment of the Indians upon any one territory is perhaps impracticable, but numbers of them can, without doubt, be consolidated in separate districts of country, and the same system of government made to apply to each. By the concentration of tribes, although in several and separate districts, government can more readily control them and more economically press and carry out plans for their improvement and civilization, and a better field be offered for philanthropic aid and Christian instruction. Some system of this kind has, at different periods in the history of our government, been put forward, but never successfully put into execution. A renewal of the attempt, with proper aids, it seems to me cannot fail of success.

Third. The passage by Congress of an act authorizing the appointment of an inspection board, or commission, to hold office during good behavior, or until the necessity for their services is terminated by the completion of the retransfer of the Indian Bureau to the War Department. It shall be the duty of this board to examine the accounts of the several agencies, see that every cent due the

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Indians is paid to them promptly as may be promised in treaties, and that proper and suitable goods and implements of agriculture are delivered to them when such articles are due; to make semi-annual reports, with such suggestions as, in their judgment, might seem necessary to the perfect establishment of a permanent and friendly feeling between the people of the United States and the Indians.

This commission could undoubtedly be dispensed with in a few years, but the results of their labors might be very important and beneficial, not only in supervising and promptly checking the delinquencies of incompetent and dishonest agents, but it would be a most convincing proof to the Indians' mind that the government was disposed to deal honestly and fairly by them. Such a commission might, indeed, be rendered wholly unnecessary if Congress would consent to the next and fourth proposition which I submit in this plan.

Fourth. The passage of an act authorizing the appointment of a permanent Indian commission, to be a mixed commission, composed of such white men as possessed in a large degree the confidence of their country, and a number of the most reputable educated Indians, selected from different tribes. The entire commission might be composed of ten members, and, if deemed advisable, might be divided so that five could operate north and five south of a given line, but both to be governed by the same general instructions, and impressing upon the Indians the same line of governmental policy. It shall be made their duty to visit all the Indian tribes within the limits of the United States, whether, to do this, it requires three, five, or ten years. They shall hold talks with them, setting forth the great benefits that would result to them from a permanent peace with the whites, from their abandonment of their nomadic mode of life, and adopting agricultural and pastoral pursuits, and the habits and modes of civilized communities. Under the directions of the President the commission shall explain to the various tribes the advantages of their consolidation upon some common territory, over which Congress shall have extended the ægis of good, wise, and wholesome laws for their protection and perpetuation. It would be wise to convince the Indians of the great power and number of the whites; that they cover the whole land, to the north, south, east, and west of them. I believe they could easily understand that although this country was once wholly inhabited by Indians, the tribes, and many of them once powerful, who occupied the conntries now constituting the States east of the Mississippi, have, one by one, been exterminated in their abortive attempts to stem the western march of civilization.

They could probably be made to comprehend that the waves of population and civilization are upon every side of them; that it is too strong for them to resist; and that, unless they fall in with the current of destiny as it rolls and surges around them, they must succumb and be annihilated by its overwhelming force. In consequence of the gradual extinction of the Indian races, and the failure of almost every plan heretofore attempted for the amelioration of their condition, and the prolongation of their national existence, and also because they will not abandon their savage tastes and propensities, it has of late years become somewhat common, not only for the press, but in the speeches of men of intelligence, and some occupying high and responsible positions, to advocate the policy of their immediate and absolute extermination. Such a proposition, so revolting to every sense of humanity and Christianity, it seems to me could not for one moment be entertained by any enlightened nation. On the contrary, the honor of the national character and the dictates of a sound policy, guided by the principles of religion and philanthropy, would urge the adoption of a system to avert the extinction of a people, however unenlightened they may be. The American government can never adopt the policy of a total extermination of the Indian race within her limits, numbering, perhaps, less than four hundred thousand, without a cost of untold treasure and lives of her peo-

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ple, besides exposing herself to the abhorrence and censure of the entire civilized world.

The commission shall assure the tribes that the white man does not want the Indian exterminated from the face of the earth, but will live with him as good neighbors, in peace and quiet. The value of maintaining friendly and brotherly relations among themselves is to be urged upon the tribes, and its continual discussion to be made one of the permanent duties of the commission. They are also to urge constantly the propriety, necessity, and benefit to result from their concentration in certain districts of the country, there to live peaceably as members of the same family, as brothers and friends, having the same interests and the same destiny. I am free to admit that the most difficult task for the commission would be to obtain the consent of the Indians to consolidate, by removing into certain defined districts. But by constantly keeping the subject before them, and by yearly visitations, the wisdom and humanity of the policy would gradually develop in the Indian mind, and one by one the tribes would come into the measure, and the whole policy be adopted. There would be very many prejudices to combat and overcome. As members of the great human family, they know and feel that they are endowed with certain rights. They possess fair intellectual faculties. They entertain the most ardent love for the largest liberty and independence. Originally their greatest desire was to be left undisturbed by the overflowing white population that was quietly but surely pressing to overwhelm them, but they have been powerless to divert or stem the current of events. They saw their hunting grounds and fisheries disappear before them. They have been reduced to limits too narrow for the hunter state, and naturally many of them at times have sought by violence the redress of what they conceived to be great and heinous wrongs against their natural rights. Though ignorant in the common acceptation of the term, they are a proud people, and quickly resent the least suspicion of dictation in the government of their actions, come from what quarter it may. Most of the tribes are eminently subject to the influence and control of interested, unprincipled, and crafty individuals, who, to retain their influence and power, would oppose the idea of a consolidation of the tribes, because now they are something, while under the new order of things they might be nothing. They will pander to the prejudices of their people by preaching the sanctity of their separate creation, nationality, and customs, and claim that as their Creator made them, so they must ever remain. They flatter the pride of the Indian mind. Their reasoning is specious, but yet it is all sophistry.

To combat and overcome such influences the commission would have much labor to perform. It may be imagined that a serious obstacle would be presented to the removal of the Indians from their homes on account of the love they bear for the graves of their ancestors. This, indeed, would be the least and last objection that would be raised by any tribe. Much is said in the books about the reverence paid by Indians to the dead, and their antipathy to deserting their ancestral graves. Whatever may have been the customs for the dead in ages gone by, and whatever pilgrimages may have been made to the graves of their loved and distinguished dead, none of any consequence exists at the present day. They leave their dead without any painful regrets or the shedding of tears. And how could it be otherwise with a people who have such indefinite and vague ideas of a future state of existence; and to my mind it is unnatural to assume or suppose that the wild and untutored Indian can have more attachment for his home, or love for the graves of his ancestors, than the civilized and enlightened Christian.

The appointment of a number of reputable educated Indians upon this commission is suggested because they are familiar with the best modes of communicating with the tribes, whether friendly or unfriendly; they are familiar with the peculiarities of the Indian mind, and know how to make the desired impression

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upon it, and it would add greatly to the confidence of the tribes in the earnestness, sincerity, and humanity of the government.

The commission shall be required to invite and hear all complaints from the Indians, transmit them verbatim to Washington, and communicate to the Indians the answers thereto. If the complaints be against any agent or citizen of the United States, such agent or citizen shall be furnished with a correct copy of the complaint, an answer thereto obtained, when all the papers in the case shall be sent to Washington, a prompt decision given upon the same, and returned to the commission for promulgation to the parties interested. In my opinion nothing could occur that would tend more strongly to advance the happiness of the Indians, and attach them firmly to the United States government, than the realization of the benefits of an impartial dispensation of justice among themselves and between them and the whites. It has been lately suggested that Indian agents be vested with magisterial powers to administer and dispense justice among the Indians, and between Indians and the whites. Such a plan does not seem to me practicable, because the agent would be absolutely powerless to enforce his judgments, not only against the Indians, but against the whites. If, however, the Indian business is retransferred to the military branch of the government, officers acting as Indian agents could act efficiently as magisterial officers, because they could always have troops to enforce their decrees, and such a measure I should deem very desirable, and I think would result in the greatest good in checking mischief, by summarily punishing lawlessness and crime, whether committed by whites or Indians.

Most of the tribes would have to be visited several times by the commission before the Indian mind would come to a conclusion upon the matters and things that might from time to time be submitted to them, and the government and people of the United States would be compelled to exercise the Christian virtue of patience until the aboriginal mind was fully prepared and ripened to adopt the plans of the government, when general councils of tribes could be called and a permanent union or confederation of peace formed among themselves and with the United States, and they be made to settle down upon lands within certain defined and permanent limits and bounds, where ample aid and protection could be easily and economically afforded them.

No suggestions have been made regarding the disposition of lands at present held or occupied by the tribes, or their annuities, or the amount and kind of aid they ought to receive when concentrated within defined districts, it being deemed premature to discuss such questions now, as circumstances and future legislation will probably better determine them.

This project, at first blush, may seem to be devised on too extensive a scale, and involving too much expense for an experiment. I cannot so regard it. On the contrary, I believe it to be more economical than any other plan that could be suggested. A whole army of Indian agents, traders, contractors, jobbers, and hangers-on would be dispensed with, and from them would come the strongest opposition to the adoption of this plan, as it would effectually close to them the corrupt sources of their wealth.

In 1865 the Secretary of the Interior estimated the cost to the government of maintaining each regiment of troops operating against the Indians on the frontier at two millions of dollars per annum, and that only a few hundred Indians had been killed. By a recent publication in the newspapers (but whether true or not I cannot say) it was stated that the cost of operations against the Indians during the past year was thirty millions of dollars; that a certain number only of Indians had been killed, each life costing the government sixty thousand dollars. Though the cost of carrying on a war is now pretty well understood in this country, the expense of an Indian war extending along a frontier of thousands of miles cannot be safely estimated. The expense of the Florida Indian war, against a few Indians, who long refused to leave a country

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hardly inhabitable by civilized man, it is known, was millions of treasure and many valuable lives.

The expense of this entire plan for establishing peace, saving lives, making every route of travel across the continent entirely safe, civilizing and perpetuating the Indian race, and developing immense tracts of country now held by hostile bands of Indians, would be but a mere tithe to the amount now annually paid by the government for these purposes. There are plenty of troops already in the Indian country, and after the commission has commenced its labors hostilities would very soon cease. Yet the military would have to be maintained in the country until the labors of the commission were fairly and fully developed, and, if successful, the troops could be moved into or contiguous to the Indian districts, to protect them from frauds and impositions, to maintain them in their just and legal rights, and to act as the magisterial agents of the government. The benefits to result from even a partial success of this plan would, to my mind, justify the government in attempting it, especially as it seems so much more economical than the prosecution of the present Indian policy.

E. S. PARKER.

WAR DEPARTMENT,
Washington City, January 28, 1867.

SIR: I have the honor to transmit herewith, for the consideration of the committee, a report on Indian affairs, of January 25, prepared by General John Pope, United States army.

Very respectfully, sir, your obedient servant,

EDWIN M. STANTON,
Secretary of War.

Hon. R. C. SCHENCK,
Chairman of Military Committee, House of Representatives.

WASHINGTON, D. C., *January* 25, 1867.

GENERAL: In compliance with your suggestions, I have the honor to submit the following leading reasons why the Indian Bureau should be retransferred to the War Department. The views which I shall submit are by no means original, but are well settled opinions of every officer of the army who has had experience of the subject, and are and have been entertained for years by nearly every citizen of the Territories not directly or indirectly connected with the present system of Indian management.

1. Under present circumstances there is a divided jurisdiction over Indian affairs. While the Indians are officially at peace, according to treaties negotiated with them by the civil officers of the Indian Bureau, the military forces stationed in the Indian country have no jurisdiction over the Indians, and, of consequence, no certain knowledge of their feelings or purposes, and no power to take any action, either of a precautionary or aggressive character.

The first that is known of Indian hostilities is a sudden report that the Indians have commenced a war, and have devastated many miles of settlements, or massacred parties of emigrants or travellers. By the time such information reaches the military commander the worst has been accomplished, and the Indians have escaped from the scene of outrage. Nothing is left to the military except pursuit, and generally unavailing pursuit. The Indian agents are careful never to locate their agencies at the military posts, for reasons very well understood. It is not in human nature that two sets of officials, responsible to

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different heads, and not in accord either in opinion or purpose, should act together harmoniously; and instead of combined, there is very certain to be conflicting action. The results are what might be expected. It would be far better to devolve the whole management of Indians upon one or the other department, so as to secure at least consistent and uniform policy. At war, the Indians are under the control of the military; at peace, under the control of the civil officers. Exactly what constitutes Indian hostilities is not agreed on; and besides this, as soon as the military forces, after a hard campaign, conducted with great hardship and at large expense, have succeeded in forcing the Indians into such a position that punishment is possible, the Indian, seeing the result and the impossibility of avoiding it, immediately proclaims his wish to make peace. The Indian agent, anxious, for manifest reasons, to negotiate a treaty, at once interferes "to protect" (as he expresses it) the Indians from the troops, and arrests the further prosecution of the military expedition, just at the moment when results are to be obtained by it, and the whole labor and cost of the campaign are lost. The Indian makes a treaty to avoid immediate danger by the troops, without the slightest purpose of keeping it, and the agent knows very well that the Indian does not intend to observe it. While the army is fighting the Indians at one end of the line, Indian agents are making treaties and furnishing supplies at the other end, which supplies are at once used to keep up the conflict. With this divided jurisdiction and responsibility it is impossible to avoid these unfortunate transactions. If the Indian department, as at present constituted, were given sole jurisdiction of the Indians and the troops removed, it is certain that a better condition of things would be obtained than now exists, since the whole responsibility of Indian wars and their results to unprotected citizens would belong to the Indian Bureau alone, without the power of shifting the responsibility for consequences upon others. The military officer is the representative of force, a logic which the Indian understands, and with which he does not invest the Indian agent. It is a fact which can be easily authenticated that the Indians in mass prefer to deal entirely with military commanders, and would unanimously vote for the transfer of the Indian department to the War Department. In this they are mainly influenced by the knowledge that they can rely upon what the military commander tells or promises them, as they see he has power to fulfil his promise.

2. The first and great interest of the army officer is to preserve peace with the Indians. His home during his life is to be at some military post in the Indian country, and aside from the obligations of duty, his own comfort and quiet, and the possibility of escaping arduous and harassing field service against Indians at all seasons of the year, accompanied by frequent changes of station, which render it impossible for him to have his family with him, render a state of peace with Indians the most desirable of all things to him. He therefore omits no proper precautions, and does not fail to use all proper means, by just treatment, honest distribution of annuities, and fair dealing, to secure quiet and friendly relations with the Indian tribes in his neighborhood. His honest distribution of the annuities appropriated to the Indians is further secured by his life commission in the army, and the odium which would blast his life and character by any dishonest act. If dismissed from the service for such malfeasance, he would be publicly branded by his own profession, and would be powerless to attribute his removal from office to any but the true cause. The Indian agent, on the other hand, accepts his office for a limited time and for a specific purpose, and he finds it easy when he has secured his ends (the rapid acquisition of money) to account for his removal from office on political grounds, or the personal enmity of some other official of his department superior in rank to himself. The eagerness to secure an appointment as Indian agent, on a small salary, manifested by many persons of superior ability, ought of itself to be a warning to Congress as to the objects sought by it. It is a common saying in the west that next to, if not indeed before, the consulship to Liverpool, an In-

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dian agency is the most desirable office in the gift of the government. Of course the more treaties an Indian agent can negotiate the larger the appropriations of money and goods which pass through his hands and the more valuable his office. An Indian war every other day, with treaty-making on intermediate days, would be, therefore, the condition of affairs most satisfactory to such Indian agents. I by no means mean to say that all Indian agents are dishonest. In truth I know some who are very sincere and honorable men, who try to administer their offices with fidelity to the government; but that the mass of Indian agents on the frontier are true only to their personal and pecuniary interests, I am very sure no one familiar with the subject will dispute.

I repeat, then, that a condition of peace with Indians is above all things desirable to the military officer stationed in their country; something very like the reverse to the Indian agent.

The transfer of the Indian Bureau to the War Department would at once eliminate from our Indian system the formidable army of Indian superintendents, agents, sub-agents, special agents, jobbers, contractors, and hangers-on who now infest the frontier States and Territories, and save to the government annually a sum of money which I will not venture to estimate. The army officers detailed to perform duty in their places would receive no compensation in addition to their army pay. Previous to the creation of the Interior Department and the transfer of the Indian Bureau to that department, army officers performed well and honestly the duties of Indian agents, and it is only necessary to refer to our past history to demonstrate that our relations at that time with the Indians were far more friendly and satisfactory than they have been since.

In conclusion, it is hardly necessary to repeat that no business was ever successfully conducted where there was a joint jurisdiction and a divided responsibility; nor can harmony under such circumstances ever be looked for, so long as human nature remains what it is. The military are absolutely necessary in the Indian country to protect the lives and property of our citizens. Indian agents and superintendents are not necessary, since their duties have been and can still be faithfully and efficiently performed by the army officers stationed with the troops. Harmonious and concerted action can never be secured while both parties are retained.

The military are necessary—the civil officers are not; and, as it is essential that the one or the other be displaced, I cannot see what doubt can exist as to which party must give way.

These are only the general reasons for the retransfer of the Indian Bureau to the War Department—reasons which are well understood by every one familiar with the subject. Many others equally valid, much more in detail, might be given, but perhaps those already set forth, and which command the general concurrence of everybody concerned, would seem to be sufficient.

Concerning the general policy to be pursued toward the Indian tribes, their restriction to reservations, the locations of such reservations and their management, together with the regulation of trade with them, I have so fully set forth my views in various communications to the Secretary of War and to yourself, which have from time to time been published by Congress, that I do not deem it necessary to repeat them here. In order that any policy whatever may be consistently and efficiently pursued, a change in our present administration of Indian affairs is absolutely essential. The retransfer of the Indian Bureau to the War Department is believed to be the first step toward a reformation, and until that step is taken it is useless to expect any improvement in the present condition of our Indian relations.

A reference to my communications on this subject for the past twelve months will exhibit the fact that I have repeatedly warned the government that the Indian war now upon us was inevitable, and that no reliance whatever could be placed upon treaties of peace such as had been negotiated. The peace commis-

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sioners promise the Indian, in the first place, that the whites shall not go into the Indian country, knowing well that it is impossible to fulfil such a promise. This is the first and most persistent demand of the Indian, a demand readily conceded but never executed. Other provisions are inserted in the treaty equally certain to remain unfulfilled. The Indian has lost all confidence in such promises, and only makes a treaty to secure the money and supplies which accompany it. In this unscrupulous manner treaties are made and violated on both sides, and in this manner they will continue to be made unless some change in our Indian system is effected.

While the policy of the government toward the Indian tribes is humane and liberal, so far as legal enactments are concerned, the mode of administering that policy has not only frustrated all the kind and benevolent intentions of the government, but has absolutely worked wrong and injustice, both to whites and Indians, which could not have occurred had there been no laws whatever on the subject.

I am, general, respectfully, your obedient servant,

JOHN POPE,
Brevet Major General U. S. Army.

General U. S. GRANT,
General-in-Chief, Washington, D. C.

Official:

E. S. PARKER,
Colonel and A. D. C.

Respectfully forwarded to the Secretary of War, with the request that these copies be sent to the military committees of the United States Senate and House of Representatives, and the Hon. Secretary of the Interior.

U. S. GRANT, *General.*

HEADQUARTERS ARMY, *January* 27, 1867.

Letter from the Secretary of War, addressed to the Chairman of the Committee on Military Affairs, relative to the issue of a large number of arms to the Kiowas and other Indians.

WAR DEPARTMENT,
Washington City, February 1, 1867.

SIR: I transmit herewith, for the information of the military committee, a communication from Major H. Douglass, third infantry, commanding at Fort Dodge, Kansas, dated January 13, 1867, in relation to the issue of large numbers of arms with ammunition to the Kiowas and other Indians, and expressing his apprehension of serious Indian hostilities in consequence thereof.

I am, sir, very respectfully, your obedient servant,

EDWIN M. STANTON,
Secretary of War.

Hon. R. C. SCHENCK,
Chairman Military Committee.

FORT DODGE, KANSAS,
January 13, 1867.

GENERAL: I consider it my duty to report what I have observed with reference to Indian affairs in this country, so that such representations may be made to the Department of the Interior by the commanding general of division as he may think proper; also other items of information which may be useful.

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The issue and sale of arms and ammunition—such as breech-loading carbines and revolvers, powder and lead, (loose and in cartridges,) and percussion caps—continues without intermission. The issue of revolvers and ammunition is made by Indian agents, as being authorized by the Commissioner of Indian Affairs, and the sale of them in the greatest abundance is made by traders. Butterfield, an Indian trader, formerly of the overland express, has the largest investment in Indian goods of all traders. He has sold several cases of arms to the Cheyennes and Arapahoes. Charley Rath, a trader, who lives at Zarah, has armed several bands of Kiowas with revolvers, and has completely overstocked them with powder.

Between the authorized issue of agents and the sales of the traders, the Indians were never better armed than at the present time. Several hundred Indians have visited this post, all of whom had revolvers in their possession. A large majority had two revolvers, and many of them three.

The Indians openly boast that they have plenty of arms and ammunition, in case of trouble in the spring.

The Interior Department does not seem to appreciate the danger of thus arming these Indians. The evil of presenting a revolver to each of the chiefs of bands would hardly be appreciable, but when the whole rank and file are thus armed, it not only gives them greater courage to murder and plunder, but renders them formidable enemies.

The agents have no real control over the traders; in fact, they are accused by many, both Indians and white men, of being in league with them, and of drawing a large profit from the trade. Should such be the case, (and I think it highly probable,) it is a natural consequence that the agent does not wish to control the trader.

The anxiety of Indians at the present time to obtain arms and ammunition is a great temptation to the trader. For a revolver an Indian will give ten, even twenty times its value, in horses and furs; powder and lead are sold to them at almost the same rate, and as the bulk is small, large quantities can be transported at comparatively little expense. This anxiety cannot be caused by a lack of such articles, because they have plenty to last for some time, but everything tends to show that the Indians are laying in large supplies, preparatory to an outbreak. When the outbreak occurs, we will see too late that we have provided our enemies with the means of our destruction.

A great deal of dissatisfaction seems to have been created among the Indians by the unequal distribution of presents.

The Kiowas complain bitterly of Colonel Leavenworth, their agent, stationed at Fort Zarah. Kicking Bird, a chief of the Kiowas, states that only a few small bands of Kiowas got any presents, the balance last year got nothing; that it had been represented to Colonel Leavenworth that most of the bands were bad in their hearts, and would not go in to get their presents; that he, Kicking Bird, sent runners to tell Colonel Leavenworth that his stock was poor, and he could not move in there, but he would in the spring, if the agent would keep his share of the goods, but Colonel Leavenworth would not listen, and either gave all the goods to the bands then in, or sold them to other Indians, and told them they would get no goods that year.

How much of this is true I know not, but from all I can learn there seems to be at least some foundation for the story. Bad management, bad faith, and injustice are sure to produce the worst results. Kicking Bird says that all bad feeling in his tribe is owing to the injustice of their agent; that it required all his influence to prevent an outbreak, and he is afraid that they will commence hostilities in the spring.

The Arapahoes, Cheyennes, and a large band of Sioux, under the leadership of Big Bear, are now *en route* for the purpose of crossing the Arkansas into the Kiowa country. They move ostensibly to graze and hunt buffalo. A portion

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of the Arapahoes, under the general leadership of Little Raven, crossed the river about four miles below this post.

The Sioux and Cheyennes are encamped about 160 miles north of this post on the Republican, and are said to be hostile. They are to cross about seven miles below here. They are all well mounted and well armed with carbines and revolvers, and supplied with plenty of ammunition.

Kicking Bird says the Sioux and Cheyennes asked his permission to cross the river, and that he refused it for fear of trouble, but that his men wish them to cross, and he believes that they will all cross the river, and that in the spring, when the grass comes up, there will be war. He had been treated kindly at Fort Dodge, or he would not tell us so, but we must look out for our lives, and for our stock in the spring. He says, as they talk now, all the tribes north and south of the Arkansas will be in the outbreak, his own tribe among them.

He also states that Satante, or "White Bear," a principal chief of the Kiowas, is always talking of war; that they have already had a counsel at the Kiowa camp, in which the Cheyennes, Sioux, Arapahoes, Kiowas, Comanches, and Apaches were represented, and it was agreed that as soon as the grass was old enough they would *commence war;* that he (Kicking Bird) had been kindly treated at Fort Dodge, and he wished to put us on our guard; that before spring the Indians might change their minds, but at present their intention was war. He said he would be backwards and forwards frequently to give us the news.

The chief (Kicking Bird) is known to General Sherman, who talked with him last fall, and is believed at this post to be the most reliable of all the Indians.

I would respectfully state that it is my purpose to keep the district and department informed of all movements of Indians in large bodies, as far as it is possible.

I am, very respectfully, your obedient servant,

H. DOUGLASS,
Major Third Infantry, Commanding Post.

ASSISTANT ADJUTANT GENERAL,
Division of Missouri.

[Indorsement.]

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
Fort Leavenworth, Kansas, January 22, 1867.

Respectfully forwarded to headquarters military division of the Missouri. This communication should have been sent through the district commander, but on account of its importance I forward it at once, in connection with the sale of arms to Indians and other matters. I have furnished the district commander (upper Kansas) with a copy of it.

WINFIELD S. HANCOCK,
Major General U. S. Army, Commanding Department.

It may be well to state (although it is probably well known to the Lieutenant General) that Kicking Bird was one of the chiefs who killed Box and captured the Box family last summer, as stated to me by the elder daughter.

WINFIELD S. HANCOCK,
Major General United States Army.

HEADQUARTERS MILITARY DIVISION OF MISSOURI,
St. Louis, Missouri, January 25, 1867.

Respectfully forwarded to headquarters armies of the United States, with request that it be laid before the Committee on Indian Affairs.

I know Kicking Bird very well; he is intelligent, and I consider full faith can be given to his statements.

W. T. SHERMAN,
Lieutenant General Commanding.

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ADJUTANT GENERAL'S OFFICE,
Washington, D. C., January 30, 1867.

Respectfully submitted to General Grant, commanding army of the United States.

E. D. TOWNSEND,
Assistant Adjutant General.

Respectfully returned, with request that this communication be laid before the military committees of Congress.

By command of General Grant:

E. S. PARKER,
Colonel and Aide-de-camp.

HEADQUARTERS ARMY UNITED STATES,
January 31, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., February 18, 1867.

GENTLEMEN: The President of the United States having appointed you special commissioners to visit the Indian country in the neighborhood of Fort Phil. Kearney, for the purpose of ascertaining all the facts, in an authentic shape, that led to the unfortunate affair at or near said fort, resulting in the death of several officers and soldiers of the army, on the 21st of December last, it becomes proper that this department should give you such instructions as are deemed necessary to carry out the object aimed to be accomplished by the President, and also to give you all the information in possession of the Indian Bureau as to the temper and disposition of the different tribes occupying the country you are expected to visit.

It is well to inform you that the great object aimed to be accomplished, in sending you on this mission, is to prevent, if possible, a general Indian war. To accomplish this main object of your mission, it will be necessary for you to ascertain, first, if any of the tribes or bands of Indians occupying the country, say in a circuit of two hundred and fifty to three hundred miles or more around Fort Laramie, are friendly; and secondly, what tribe or band was engaged in the affair at said Fort Phil. Kearney. It has been reported to the Indian office that the Indians who were engaged in this affair were at the time on a friendly visit to the fort. This report is not known to be true; you will, consequently, inquire into its truthfulness. It has also been reported that the great cause of dissatisfaction among the Indians of that section of the country generally grows out of an order, dated 31st July last, issued by General Crook, at Omaha, in relation to arms and ammunition. There being great diversity of opinion between the Indian Bureau and the military, as to the policy of furnishing arms and ammunition to Indians when friendly, you are particularly requested to investigate the question, and report the result of that investigation to this department.

From information obtained from sources believed to be reliable, the Indian Bureau is informed that large numbers of the Sioux Indians are friendly. This portion is led by Spotted Tail, Swift Bear, One that Walks under the Ground, and several other chiefs and headmen; and they are to be found south of the Platte, on the Republican fork, having gone there to avoid being classed with the hostile bands in the Powder River country.

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It is also reported that Iron Shell and his band are in the Sand Hills, north of the Platte, and has gone there to avoid being included with the hostile bands in the said country of the Powder river. It will, therefore, be your particular duty to ascertain how this is, so as to separate the friendly tribes. That Red Cloud and his band and his adherents may deserve chastisement is more than probable.

I hand you a copy of a report made to the two houses of Congress, in response to resolutions passed by each house. This report will put you in full possession of the views of the Commissioner of Indian Affairs. These views I fully indorse, and earnestly recommend them to your consideration. I believe, if they are faithfully carried out by the government, and if the military department will faithfully co-operate with this department in doing so, which I have no reason whatever to doubt it will do, our Indian troubles will in a great measure disappear.

It is not intended that you should make any treaties with any Indian tribes. You will, nevertheless, hold friendly talks with them, and ascertain if any tribe or tribes, or any portion of a tribe or tribes, are disposed to go on to reservations; and if so, the number willing to do so. You will also ascertain, from the best information within your reach, where a reservation for the Indians now roaming on the headwaters of the Yellowstone and the Powder River and Tongue River country, as well as the Indians roaming around Fort Laramie, can be provided for, adapted to their condition, and where in time they could be made self-sustaining by raising stock, and gradually become an agricultural people. This department is informed that several of the leading chiefs among the Sioux are willing to go on reservations.

The Sioux, divided into various bands, is the leading Indian tribe of that section of country, and if it were possible to get them on a reservation (which should be large) it would at once clear that section of country of the most powerful tribe which now occupies it. See what can be done to effect this object.

In selecting the section of country for the reservation, be careful that it is adapted to the object which it is intended to meet, viz: that it has soil, water and timber, and adapted to stock-raising.

Instructions will be given by the President to the various military commanders to afford you all the aid and assistance in their power, to facilitate and make successful your mission. They will be instructed to afford you all escorts and protection you may require, and extend every facility in their power.

You are directed to meet at Omaha on the 23d instant, and proceed on to Fort Laramie as soon as possible. It is very probable that you will not be required to go beyond Fort Laramie; but if you cannot accomplish the object of your mission without going to Fort Phil. Kearney, you will of course go on there.

It is intended, after this full explanation of the object contemplated in sending you on this mission, to give you great discretion and latitude to carry out this object, trusting to your good judgment and discretion. If in your power, you will, as you progress, keep this department fully advised of your doings, and of the temper and disposition of the Indians.

It may be necessary for you to make presents to Indians with whom you hold friendly talks, and also to give them rations. In this case you will buy such presents and obtain such rations from parties having them for sale in the Indian country, giving proper vouchers for the same, which will be paid here. These presents will necessarily be limited in amount.

Very respectfully, your obedient servant,

O. H. BROWNING, *Secretary.*

General ALFRED SULLY,
General J. B. SANBORN,
General N. B. BUFORD,
Colonel E. S. PARKER,
Judge J. F. KINNEY,
Mr. G. P. BEAUVAIS.

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A.

WASHINGTON, D. C, *June* 6, 1867.

SIR: I have just returned from Fort Laramie, where I have been as special commissioner of Indian affairs. On arriving here I made a verbal report to the Assistant Secretary of the Interior, and by his written request called on you yesterday, in the afternoon, to repeat to you the statements I had just made to him. You at once desired that my communication to you should be in writing, which I now have the honor to submit.

The special commission consisted of six persons, of whom two were selected by the General commanding the army and four by the Secretary of the Interior. Our instructions were to inquire into the causes which led to the Phil. Kearney massacre, on the 21st of December last, and to prevent, if possible, a general Indian war. We were specially charged with separating, as far as practicable, the friendly from the hostile Indians.

The commission assembled at Omaha, and commenced taking testimony on the 4th day of March. From the documents furnished us, and personal testimony, we learned that the government had held a treaty, in June, 1866, at Fort Laramie, with the chiefs of the tribes of the Sioux who were in possession of the hunting grounds along the new route of travel from Fort Laramie to Virginia City, in Montana, called "Bozeman's route," which is along the base of the Big Horn mountains, to the valley of the Yellowstone river. During the progress of the attempts to make the treaty conceding the right to open this road and establish military posts on it, the principal and acknowledged chiefs, Red Cloud, The Man Afraid of his Horses, Iron Shell, and others, with the principal warriors of the tribes called The Bad Faces, who are Ogallallas, Brulés, and Northern Cheyennes, utterly refused to agree to the occupation of their territory, which they represented as their last, best hunting grounds, refused to receive the presents offerred by the commissioners, refused to sign the treaty, and left the council, avowing that the occupation of their country by the white man invariably led to the entire driving off or destruction of their game, which would lead to their becoming dependent paupers, or death, and they preferred the latter alternative, and would seek it bravely fighting for their rights. Notwithstanding this defection, the commissioners made and commissioned as chiefs, as it were by letters patent, Spotted Tail, a brave warrior, Swift Bear, a friend of the whites, whose humanity is his marked trait of character, with others, as chiefs of the Brulés; The Man who Strikes Twice, The Man who Walks under the Ground, and others, Ogallallas; Big Mouth, Blue Nose, and others, of the mixed tribe of Sioux who for many years have lived near Fort Laramie, and now known as the "Laramie Loafers," and induced them with presents and promises of annuity for twenty-five years to sign a treaty giving the right of way over the new route.

As it was then unsafe for these chiefs and their followers, numbering about 2,500, to return north, they were induced to move to the south of the Platte, wherethey all wintered, except the "Laramie Loafers," numbering about 600, who have continued to live, and grow more and more demoralized, near the fort, sustained by the rations issued to them.

This treaty has never been ratified, but by military orders from the department of the Missouri, dated March 10, 1866, the new route has been occupied by troops, and Forts Reno, Phil. Kearney, and C. F. Smith have since been established upon it and garrisoned. Trains with merchandise and emigrants to Montana have passed over it. The first atrocity reported to us was the wanton shooting of a lone squaw by an emigrant or teamster, which was avenged by a large party of Indians surrounding the train and demanding the murderer, whom they compelled to be delivered to them, and whom they tortured and slew.

Colonel H. B. Carrington, the first commander of the mountain district, and

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who established Fort Phil. Kearney, July 15, 1866, testified before us that on his first march he was met with hostile demonstrations, and reported the facts to his superiors. His fatigue parties were attacked every week, the contractors for hay had their stock driven off, and the hostilities for the season culminated on the 21st of December, when Brevet Lieutenant Colonel Fetterman, sent out with a party of eighty-one men to protect the wood train, which had been attacked, was decoyed on to a distance of three and a half miles, where he was surrounded by more than 1,000 Indians, and all his party killed and mutilated. This was horrible. But was the invasion justifiable? Was it in accordance with the laws and established customs of our intercourse with the aborigines? Have they not been treated as dependent nations? Have not their rights been defined by the solemn decisions of the Supreme Court?

At Omaha we caused messengers to be sent to the camps of the Ogallalas and Brulés, who had wintered on the Republican, where they had had successful buffalo hunts, to meet us at Fort McPherson, to which place we proceeded on the 19th of March. The snows were so deep that we got no replies from our messngers until the 1st of April, which were that the Indians were unwilling to meet us at a military post. We sent a new messenger, an interpreter, who induced them to meet us at Beauvais's ranch, on the 19th of April, to the number of 180 persons, of whom about 80 were warriors, led by Spotted Tail, Swift Bear, and The Man who Strikes Twice. Our council was entirely satisfactory. We distributed goods and provisions costing $4,000 among them; we delivered the whole to them on the prairie, and witnessed their equitable division to all who were present, which they did with an order, an accuracy, and a method in the highest degree creditable to them. We assigned them for the present, for their hunting grounds, all the country south of the Platte and north of the Smoky Hill route, bounded by the longitudinal lines passing the mouths of Plum and Lodge Pole creeks; appointed them two interpreters to reside with them and be their organs of communication with the commanders of the military posts; and as we knew that General Hancock was marching against the Cheyennes to the south of us, and on this very reservation, we provided that if the Cheyennes and our troops became engaged in war, they should go north of the Platte, and, by the agency of their interpreters, be supplied with rations until they could safely return to their hunting grounds. The emergency soon happened, and all the Indians with whose chiefs and warriors we had been in council faithfully separated themselves from the hostile bands, crossing the north side of the Platte on the 6th of May. This party consisted of 2,500 Indians, and have thus been kept from the war path.

On the 20th of April we had a meeting with 20 Brulés from the Black Hills, belonging to Iron Shell's band, one of whom had been in the battle of Fort Phil. Kearney. They informed us that rumors had been spread all over their country that the whites were making war upon the Indians south of the Platte; that many small war parties had been sent out to get information; that if war existed, they were commanded to steal horses and return. If the reports were not true, to go on and hold communication with Swift Bear, (one of the party was his brother,) and then return. These Indians were manly and truthful. They gave full details of the battle, and the conditions and feelings of their tribes, which we have since verified. The attack upon the Phil. Kearney party was planned for three months. All the confederated tribes had delegates. It was matured with their religious ceremonies and auguries. Their prophets foretold they would succeed and kill one hundred. The time of the new moon was fixed for the onslaught. It was designed, when the garrison was weakened by the absence of the wood party, the supporting party, and the reserves, who would be likely to follow, to seize the fort. In the battle, they lost three of their bravest captains, and no effort was made on the fort.

A short time previous to this meeting we had learned that 119 head of mules

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had been stampeded and driven off by a party of Indians in sight of Fort Mitchell, and sixteen of them recovered. This party had met that one, and gave the exact details, which were verified by us afterwards as true. The attacking party were only six Indians.

We sent two of this party back to Iron Shell, inviting him and his people to meet us at Fort Laramie, and the remainder went south to join Spotted Tail, and have continued with him since.

We arrived at Fort Laramie on the 4th of May, and held a council with the "Loafers" on the 6th. The Indian agent, Colonel M. T. Patrick, represented the entire number, including children, for whom he was drawing rations, at 605. The entire number of men was under seventy. The half-breed children exceeding one hundred in number.

The inferiority and demoralization of this party were painfully evident. We invited them to join their friends near the Platte, where they could kill game, and when necessary the government could feed them. They evinced a great indisposition to leaving, and when informed that the government would no longer supply them with rations unless they complied with our request, they exhibited no self reliance.

A few days later, we met twelve delegates from the tribes about the Black Hills, to the northeast, who returned with the messengers we had caused to be sent them. They said three of the chief instigators of the war feeling had been killed at Phil. Kearney, on the 21st of December; that Red Cloud was not in that battle; that he was now dissatisfied, and had left his tribe and gone to live with the Minneconjoux. That the chief authority was now in the hands of four chiefs: "The Man who Carries a Sword," "White Man's Home," "Good Thunder," and "The Man Afraid of his Horses;" that they were meeting to decide whether they would meet us, and live at peace, or go to war; that but for the war south of the Platte, the peace party would predominate. We sent them back with messages, desiring all who were for peace to meet us at Fort Laramie, and as they usually fix the time of the full moon for their most important acts and ceremonials, we conjectured they would meet us before the 16th of this month.

With the approbation of the Secretary of the Interior, the commission was divided. Judge Kinney went to Phil. Kearney, to meet the Crows, who have always been friendly, and prevent them from forming an alliance with the hostile Sioux. Generals Sully and Parker have gone up the Missouri river, as far as Fort Buford, to assure the tribes of protection and justice from the United States, if they remain peaceable; and General Sanborn, Mr. Beauvais, and myself, remained at Fort Laramie to meet the chiefs we had sent for.

Two of us, General Sanborn and myself, were of the opinion that we should have made our joint report up to May the 10th, on which day the commission separated. We had long before finished taking testimony as to the massacre, and had succeeded in separating the friendly from the hostile Indians. We had written out our report, and agreed upon it, but could not induce Generals Sully and Parker, and Judge Kinney, to give the matter their attention.

Mr. Beauvais, in the main, agreed with us. We are of the opinion that there is no necessity for an Indian war. The aggressions that have been made since the massacre have not been of such moment as to require the invasion of a great army. For four months we have read, almost daily, the greatest exaggerations of the press. We have seen the glaring falsehoods of the massacre of Fort Buford and the burning of the steamer Miner reiterated all over the country. We have found the whole population who live on the routes of travel and transportation to the gold-producing territories spreading false reports and calling on the government to make war on the Indians.

The extension of the Union Pacific railroad is depriving all the ranch men of their previous custom and profits. The business of all the freighters, contract-

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ors for army supplies, and speculators, is falling off. Nine-tenths of all the business that is being done on the route is paid for by the government. Wood has been contracted for at Fort Sedgwick for two months last winter at $105 per cord, and was paid for in the month of May at $65 per cord. Oats are plenty on the Cache la Poudre at 50 cents per bushel, but are worth $4 per bushel at Fort Laramie. The Union Pacific railroad gets two cents per pound for its freight from Omaha to North Platte, 290 miles, and ten cents per mile for passengers, and at least two-thirds of its entire business is for carrying troops and army supplies. Its employés are all for war. For two years I have been acquainted with the business of the plains on the route to Colorado, during which time not one stage passenger has lost his life.

We, the three commissioners who were left at Fort Laramie, believe that, but for General Hancock's expedition, we would have secured peace with all the tribes to whom we were sent. These being our views, and being debarred from making a joint report, on the 21st of May my two colleagues joined in a written request that I should return to this city and communicate verbally to the Secretary of the Interior our joint opinion.

When we come to make up our joint report, we will recommend that all that territory north of the State of Nebraska, and west and south of the Missouri, as far as the mouth of the Muscle Shell river, containing about 80,000 square miles, be *set off* as an exclusive Indian territory, in which there shall be no military posts, and no white persons except agents, teachers, and duly licensed traders, in which shall be gradually collected all the Indians north of the Platte and east of the Rocky mountains. Corn is grown successfully in the Missouri river bottom as far north as the mouth of the Yellowstone, and the reservation for each tribe or band may have ample boundaries on the river, where they may be taught agriculture and the arts of civilized life. The navigation of the river and the reservations for the military and trading posts along its borders should be reserved. No military posts should be within Indian territory. There is now an exclusive Indian territory south of Kansas containing many civilized Indians, and sufficiently large to contain all who are south of the Platte and east of the Rocky mountains. Those on the north should have like advantages. The sterile plains produce nothing but grass and wild game. The trade in furs and buffalo robes is of more value than all the products of the white man in the rainless regions.

The new route to Montana by Fort Phil. Kearney is unnecessary. All the supplies and emigration now going there is up the Missouri to Fort Benton, or by the southern or former route. When the Union Pacific railroad extends to the base of the Rocky mountains, which will be very soon, there can be no public good obtained by garrisoning Fort Laramie or the posts north of it.

Unless it is judged necessary to retaliate on the Indians for the barbarities and massacre at Fort Phil. Kearney, no war is necessary north of the Platte. Peace can be obtained by a more humane and cheaper means than by an invading army, who never can bring the Indians to battle unless by celerity of march they can surprise the women and children in their villages.

I have the honor to be your obedient servant,

N. B. BUFORD,
Special Commissioner.

Hon. E. M. STANTON, *Secretary of War.*

B.

WASHINGTON, D. C., *July* 8, 1867.

SIR: The undersigned, special commissioner appointed and commissioned by the President of the United States, "to visit the Indians in the neighborhood

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of Fort Philip Kearney, and to counsel with them, under instructions from the Secretary of the Interior," begs leave to submit the following report:

The commission has examined many witnesses and made searching inquiry to ascertain what the disposition and conduct of those Indians who occupied the country for two hundred miles or more about Fort Phil. Kearney was, immediately after concluding the treaty of Laramie, in July, A. D. 1866, and what it has since been, and what causes and circumstances led to this disposition and conduct, and to the horrible massacre of Brevet Lieutenant Colonel Fetterman's party, December 21, 1866, and what action is required on the part of the government to secure and preserve peace with the Indians of the northwest, save them from ruin and annihilation, and ultimately lead them to adopt so far the habits and customs of civilized life as to enable them to procure their subsistence and shelter without roaming over the country and without the buffalo, which has been their sole dependence for these comforts for all past generations, and which are now about to disappear from their lands.

Disposition and conduct of the Indians about Fort Philip Kearney and the causes of the same.

The main object sought to be secured by the treaty of Laramie of July, A. D. 1866, was the opening of a new route to Montana from Fort Laramie, via Bridger's Ferry and the headwaters of the Powder, Tongue, and Big Horn rivers. This country was occupied by the Ogallalla and Minnieconjoux bands of Sioux Indians and the northern Cheyenne and Arapahoe tribes and the mountain Crows.

The region through which the road was to pass and does pass is the most attractive and valuable to Indians. It abounds with game, flocks of mountain sheep, droves of elk and deer, and herds of buffalo range through and live in this country; and the Indians with propriety called it their last best hunting grounds. All these Indians were reluctant to allow the proposed road to pass through these hunting grounds, but all would reluctantly assent to this, for so liberal an equivalent as the government was ready to give. The Indians were required further to stipulate that the government should have the right to establish one or more military posts on this road in their country. All the Indians occupying it refused thus to stipulate, and through the chiefs, headmen, and soldiers protested against the establishment of any military post on their hunting grounds along that road north of Fort Reno.

While negotiations were going on with Red Cloud and their leading chiefs to induce them to yield to the government the right to peaceably establish these military posts, which right they persistently refused to yield, saying that it was asking too much of their people, asking all they had, for it would drive away all the game, Colonel H. B. Carrington, eighteenth United States infantry, with about seven hundred officers and men, arrived at Laramie en route to their country to establish and occupy military posts along the Montana road, pursuant to General Orders No. 33, Headquarters Department of the Missouri, March 10, 1866, Major General Pope, commanding. The destination and purpose of Colonel Carrington and his command were communicated to their chiefs. They seemed to construe this as a determination on the part of the government to occupy their country by military posts, even without their consent, or that of their people, and as soon as practicable withdrew from the council with their adherents, refusing to accept any presents from the commission, returned to their country, and with a strong force of warriors commenced a vigorous and relentless war against all whites who came into it, both citizens and soldiers.

Quite a large number of Indians, who did not occupy the country along this road, were anxious to make a treaty and remain at peace. Some of this class had for a long time resided near Fort Laramie. Others, Brulés, occupied the White Earth River valley, and the Sand Hills south of that river.

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The commissioners created and appointed several of the leading warriors of these Indians chiefs, viz: Big Mouth, Spotted Tail, Swift Bear, and Two Strikes. A portion of these Indians have remained near Fort Laramie, and a portion of them on the Republican fork of the Kansas river, and have strictly complied with their treaty stipulations.

The number of Sioux Indians who considered themselves bound by the treaty and have remained at peace is about two thousand, while the Minneconjoux and a portion of the Ogallalla and Brulé bands, the northern Cheyennes and Arapahoes, with a few Sans Arcs, numbering in the aggregate about six hundred lodges, remained in their old country and went to war under the auspices of their old chiefs.

We therefore report that all the Sioux Indians occupying the country about Fort Phil. Kearney have been in a state of war against the whites since the 20th day of June, A. D. 1866, and that they have waged and carried on this war for the purpose of defending their ancient possessions and the possessions acquired by them from the Crow Indians by conquest after bloody wars, from invasion and occupation by the whites.

This war has been carried on by the Indians with most extraordinary vigor and unwonted success. During the time from July 26, the day on which Lieutenant Wand's train was attacked, to the 21st day of December, on which Brevet Lieutenant Colonel Fetterman, with his command of eighty officers and men, was overpowered and massacred, they killed ninety-one enlisted men and five officers of our army, and killed fifty-eight citizens and wounded twenty more, and captured and drove away three hundred and six oxen and cows, three hundred and four mules, and one hundred and sixty-one horses. During this time they appeared in front of Fort Phil. Kearney, making hostile demonstrations and committing hostile acts fifty-one different times, and attacked nearly every train and person that attempted to pass over the Montana road.

Massacre of Brevet Lieutenant Colonel Fetterman's party, and the causes which led to it.

General Orders No. 33, Headquarters Department of the Missouri, dated March 10, 1866, directed that two new military posts should be established on this new route to Montana. One "near the base of the Big Horn mountain," the other "on or near the Upper Yellowstone," and designated the second battalion of the eighteenth infantry to garrison the three posts on this route, and created the mountain district, department of the Platte, and directed the colonel of the regiment (Colonel H. B. Carrington,) to take post at Fort Reno and command the district, which included all the troops and garrisons on this route.

General Orders No. 7, Headquarters Department of the Platte, June 23, 1866, directed that the second battalion eighteenth infantry should take post as follows: Two companies at Fort Reno, on Powder river, two companies about eighty miles nearly south of Reno, on the waters of Powder or Tongue river, which post should be known as Fort Philip Kearney, and two companies at the crossing of the Big Horn river on the same road, and about seventy miles beyond Fort Philip Kearney, to be known as Fort C. F. Smith, and directed that the colonel of the regiment should take post at Fort Philip Kearney and command the "mountain district."

The orders above referred to were issued with the express understanding, apparently, that this road to Montana was to be opened through the Indian country by compact or treaty with the Indians occupying it, and not by conquest and the exercise of arbitrary power on the part of the government. Hence Colonel Carrington's instructions looked mainly to the duty of selecting and building the two new forts, Philip Kearney and C. F. Smith, and the command assigned was only sufficient for this purpose and properly garrisoning the posts. This com-

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mand numbered in all about seven hundred men, five hundred of whom were new recruits, and twelve officers, including district commander and staff. The commanding officer, Colonel Carrington, could not and did not fail to see at once that although his command was entirely sufficient to erect the new forts, build the barracks, warehouses and stables, and make preparations for winter, and properly garrison his posts, and could protect emigration from the small thieving parties of Indians, it was still entirely inadequate to carry on systematic and aggressive war against a most powerful tribe of Indians fighting to maintain possession and control of their own country, in addition to those other duties. This officer carried the orders above referred to into effect with promptness and zeal, organizing the mountain district, June 28, 1866, establishing Fort Philip Kearney on the 15th of July, and Fort C. F. Smith on the 3d day of August, and as early as the 31st day of July informed General P. St. George Cooke, the department commander, that the status of Indians in that country was one of war, and requested reenforcements sent to him, and two days previously had telegraphed the Adjutant General of the army for Indian auxiliaries, and additional—force of his own regiment.

On the 9th of August General Cooke, commanding department of the Platte, informed Colonel Carrington that Lieutenant General Sherman ordered the posts in his, Colonel Carrington's, district supported as much as possible, and announced a regiment coming from St. Louis.

No auxiliaries were assigned and no re-enforcements came until November, when company C, second United States cavalry, reached Fort Kearney, sixty strong, armed with Springfield rifles and Star carbines. In December about ninety recruits joined the battalion in the mountain district, a portion of whom were assigned to a company stationed at Fort Phil. Kearney. No other re-enforcements were sent to the district. Approved requisitions for ammunition were not answered. The command at Fort C. F. Smith was reduced to ten rounds per man; the command at Fort Phil. Kearney to forty-five rounds per man, and the command at Fort Reno to thirty rounds per man. Recruits could not practice any in firing. Little time could be allowed from fatigue duty for drill, and with but twelve officers and three posts little could have been done in drilling recruits, if time could have been allowed.

The result of all this was, that the troops were in no condition to fight successful battles with Indians or other foes, and this from no fault of Colonel Carrington, and I am astonished at the zeal with which they fought and the damage they inflicted December 21.

The numerous demonstrations and attacks made by Indians prior to the sixth of December seemed to have been made for the sole purpose of capturing stock, picket posts, and small parties of soldiers who might venture beyond the cover of the garrison, and of annoying and checking the wood train constantly drawing material for the new forts.

On the morning of December 6, the wood train was attacked, a common occurrence, about two miles from the fort, and forced to corral and defend itself. Brevet Lieutenant Colonel Fetterman, with a command of seventeen mounted infantry and thirty-five cavalry, moved out to releive the wood train and drive off the Indians, and Colonel Carrington, with twenty-five mounted infantry, moved out for the purpose of cutting off the Indians from retreat, and destroying them. On this day, at a point on Peno creek, about five miles from the fort, the Indians, the second time after the fort was established, made a stand and strong resistance, and nearly surrounded Colonel Fetterman's party. The infantry obeyed orders and behaved well. The cavalry, with the exception of ten enlisted men, disobeyed the orders of Colonel Fetterman and fled with great precipitancy from this portion of the field. As the cavalry retreated, the Indians made a great display and every effort to create a panic with the infantry, but Colonel Fetterman, Lieutenant Wands, and Lieutenant Brown succeeded

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in keeping this small body of infantry cool, and by reserving their fire for proper range, rescued it from annihilation, and made a junction with Colonel Carrington's party, on the east side of Peno creek. Lieutenant Bingham, after leaving Colonel Fetterman's party, with Lieutenant Grummond, a sergeant from Colonel Carrington's command, and two men from his own, without the knowledge or orders of any of his superiors, pursued into an ambuscade, more than two miles from the main party, a single Indian who was on foot just in front of their horses, and Lieutenant Bingham and the sergeant were there killed. The results of this day's fighting, although not of a decidedly successful character to the Indians, were such as naturally to induce the belief on their part that by proper management and effort they could overpower and destroy any force that could be sent out from the fort to fight them, and no doubt at this time resolved to make the effort the first auspicious day, and postponed their proceedings from the new to the full moon. In the mean time everything was quiet about the fort, although they often appeared on the surrounding hills.

On the morning of December 21st the picket at the signal station signalled to the fort that the wood train was attacked by Indians, and corralled, and the escort fighting. This was not far from eleven o'clock a. m., and the train was about two miles from the fort and moving towards the timber. Almost immediately a few Indian pickets appeared on one or two of the surrounding heights, and a party of about twenty near the Big Piney, where the Montana road crosses the same, within howitzer range of the fort. Shells were thrown among them from the artillery in the fort and they fled.

The following detail, viz., fifty men and two officers from the four different infantry companies, and twenty-six cavalrymen and one officer, was made by Colonel Carrington. The entire force formed in good order and was placed under command of Brevet Lieutenant Colonel Fetterman, who received the following orders from Colonel Carrington: "Support the wood train, relieve it, and report to me. Do not engage or pursue Indians at its expense; under no circumstances pursue over Lodge Trail Ridge." These instructions were repeated by Colonel Carrington, in a loud voice, to the command when in motion, and outside the fort, and again delivered in substance through Lieutenant Wands, officer of the day, to Lieutenant Grummond, commanding cavalry detachment, who was requested to communicate them again to Colonel Fetterman.

Colonel Fetterman moved out rapidly to the right of the wood road, for the purpose, no doubt, of cutting off the retreat of the Indians, then attacking the train. As he advanced across the Piney, a few Indians appeared in his front and on his flanks, and continued flitting about him, beyond rifle range, till he disappeared beyond Lodge Trail Ridge. When he was on Lodge Trail Ridge, the picket signalled the fort that the Indians had retreated from the train; the train had broken corral and moved on towards the timber.

The train made the round trip and was not again disturbed that day.

At about fifteen minutes before twelve o'clock Colonel Fetterman's command had reached the crest of Lodge Trail Ridge, was deployed as skirmishers, and at a halt. Without regard to orders, for reasons that the silence of Colonel Fetterman now prevents us from giving, he, with the command, in a few moments disappeared, having cleared the ridge, still moving north. Firing at once commenced, and increased in rapidity till, in about fifteen minutes and at about twelve o'clock m., it was a continuous and rapid fire of musketry, plainly audible at the fort. Assistant Surgeon Hines, having been ordered to join Fetterman, found Indians on a part of Lodge Trail Ridge not visible from the fort, and could not reach the force there struggling to preserve its existence. As soon as the firing became rapid Colonel Carrington ordered Captain Ten Eyck, with about seventy-six men, being all the men for duty in the fort, and two wagons with ammunition, to join Colonel Fetterman immediately. He moved out and advanced rapidly towards the point from which the sound of firing proceeded, but

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did not move by so short a route as he might have done. The sound of firing continued to be heard during his advance, diminishing in rapidity and number of shots till he reached a high summit overlooking the battle-field, at about a quarter before one o'clock, when one or two shots closed all sound of conflict.

Whether he could have reached the scene of action by marching over the shortest route and as rapidly as possible in time to have relieved Colonel Fetterman's command, I am unable to determine.

Immediately after Captain Ten Eyck moved out, and by orders of Colonel Carrington issued at the same time as the orders detailing that officer to join Colonel Fetterman, the quartermaster's employés, convalescents, and all others in garrison, were armed and provided with ammunition, and held in readiness to re-enforce the troops fighting, or defend the garrison.

Captain Ten Eyck reported, as soon as he reached a summit commanding a view of the battle-field, that the Peno valley was full of Indians; that he could see nothing of Colonel Fetterman's party, and requested that a howitzer should be sent to him. The howitzer was not sent. The Indians, who at first beckoned him to come down, now commenced retreating, and Captain Ten Eyck advancing to a point where the Indians had been standing in a circle, found the dead naked bodies of Brevet Lieutenant Colonel Fetterman, Captain Brown, and about sixty-five of the soldiers of their command. At this point there were no indications of a severe struggle. All the bodies lay in a space not exceeding thirty-five feet in diameter. No empty cartridge shells were about, and there were some full cartridges. A few American horses lay dead a short distance off, all with their heads towards the fort. This spot was by the road-side and beyond the summit of a hill rising to the east of Peno creek. The road, after rising this hill, follows this ridge along for about half or three-quarters of a mile, and then descends abruptly to Peno creek. At about half the distance from where these bodies lay to the point where the road commences to descend to Peno creek was the dead body of Lieutenant Grummond, and still further on, at the point where the road commences to descend to Peno creek, were the dead bodies of the three citizens and four or five of the old, long-tried, and experienced soldiers. A great number of empty cartridge shells were on the ground at this point, more than fifty lying on the ground about one of the dead citizens, who used a Henry rifle. Within a few hundred yards in front of this position ten Indian ponies lay dead, and there were sixty-five pools of dark and clotted blood. No Indian ponies or pools of blood were found at any other point. Our conclusion, therefore, is that the Indians were massed to resist Colonel Fetterman's advance along Peno creek, on both sides of the road; that Colonel Fetterman formed his advanced lines on the summit of the hill overlooking the creek and valley, with a reserve near where the large number of dead bodies lay; that the Indians, in force of from fifteen to eighteen hundred warriors, attacked him vigorously in this position, and were successfully resisted by him for a half an hour or more; that the command then being short of ammunition, and seized with panic at this event and the great numerical superiority of the Indians, attempted to retreat towards the fort; that the mountaineers and old soldiers, who had learned that a movement from Indians, in an engagement, was equivalent to death, remained in their first position and were killed there; that immediately upon the commencement of the retreat the Indians charged upon and surrounded the party, who could not now be formed by their officers, and were immediately killed. Only six men of the whole command were killed by balls, and two of these, Lieutenant Colonel Fetterman and Captain Brown, no doubt inflicted this death upon themselves, or each other, by their own hands, for both were shot through the left temple, and powder burnt into the skin and flesh about the wound. These officers had also oftentimes asserted that they would not be taken alive by Indians.

In the critical examination we have given this painful and horrible affair, we

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do not find of the immediate participants any officer living deserving of censure; and even if evidence justifies it, it would ill become us to speak evil of or censure those dead who sacrificed life struggling to maintain the authority and power of the government, and add new lustre to our arms and fame.

Of those who have been more remotely connected with the events that led to the massacre, we have endeavored to report so specifically as to enable yourself and the President, who have much official information that we cannot have, to determine where the censure must fall. The difficulty "in a nutshell" was, that the commanding officer of the district was furnished no more troops or supplies for this state of war than had been provided and furnished him for a state of profound peace.

In regions where all was peace, as at Laramie in November, twelve companies were stationed, while in regions where all was war, as at Phil. Kearney, there were only five companies allowed.

The Minneconjoux band of Sioux, under the direction of their head chief, High Back Bone, originated and organized this expedition and attack against Fort Philip Kearney, with the view and avowed purpose of destroying the fort and its garrison. This band was joined by most of the young warriors of the Brulé, Ogallalla, Sans Arc, and Two Kettle bands of Sioux, and of the northern Arapahoe and Cheyenne tribes.

The Indians sustained a loss of four Minneconjoux, three Brulés, three Ogallallas, one Cheyenne, and one Arapahoe, killed on the field, and of about sixty severely wounded, several of whom died, and many of the remaining are permanently maimed. They also lost twelve horses, killed on the field, and fifty-six others so severely wounded that they died within twenty-four hours.

The statements made to us by the chiefs who participated in the affair corroborate the foregoing conclusions to which we have been led by the circumstantial evidence.

Action required by the government to secure and preserve peace with the Indians of the northwest, and induce them to adopt so far the habits and customs of civilization as to enable them to provide their subsistence without roaming, &c.

To secure peace it is necessary for the government to abandon aggressive war; it is believed that the history of Indian wars furnishes no instance where the Indians have asked for mercy, or even for a cessation of hostilities. Hostilities are sometimes abandoned for a time to be renewed at a more convenient season, and sometimes they have repeated that they did not want to fight any more. War between different tribes is rarely terminated, but is carried on by successive generations. Such is the war between the Sioux and Chippewa nations, the Sioux and Pawnees, and others; so in all our wars with them, they continue to fight as long as we fight them. Hence, if the government is not ready and determined to prosecute a war against all the hostile Indians to their extermination, it is much better to abandon aggressive war now, and request the Indians to come in and make peace, than to stop it a year hence, when they have committed ten, twenty, or thirty fold more depredations, and taken the life of many more of our people.

I therefore recommend that all the troops in the Indian country be employed in garrisoning the military posts, protecting the working parties on the railroads and the railroad lines, and the emigration and travel across the plains, and in pursuing, and, if possible, punishing the small thieving parties of Indians that come upon our lines of travel. Commissioners should then be sent to the hostile Indians, and friendly relations be restored. It is believed that sound policy would demand this course under any circumstances; it is certain that it demands it under the present circumstances. For the government, by the law as established by its own Supreme Court, in 5th Peters, 48, is in the wrong in the

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case of the Powder River Sioux, for it opened a road through, and established military posts in, the country of these Indians without their consent and against their protest. In the case of the Cheyennes of the Arkansas, a military expedition was sent to them, or to the country in which they had a right to range and hunt, while they were at peace. This military force marched towards their village, which they left; this was burnt by our military officers. These Indians, of course, at once became hostile, and have captured, drawn away, and destroyed a large amount of stock, and killed, up to this date, as stated by General Dodge, M. C., nearly fifty men. It is but natural that they should go to war and continue hostile until the property destroyed is restored to them by the government. It is of the utmost importance that the safety of travel and transportation across the plains should be at once secured; this can only be secured by peace, which will at once follow the course above indicated. There can be no safety to travel and transportation while the Indians are at war. Peace and security to all interests must go together, as well as war and insecurity. If war would be the better policy, with a sufficient force on the plains to protect all our interests and punish the Indians, it cannot now be a good policy, when the military force on the plains is not more than one-fifth as large as it was in the summer of 1865, when very little was accomplished, and at the close of which all the Indians were invited to come in and make peace.

To jeopard and sacrifice the lives of large numbers of our own people for the purpose of carrying on a fruitless war against a few Indians, who can be easily kept at peace, is deemed unwise.

To carry on a successful war against the combined Indians of the plains requires, it is thought by many men of military experience and great judgment, twenty-five thousand men, and it would probably require from five to ten years for this force to conquer a peace. The expense would probably be from three to four hundred millions of dollars. This would be needless, and our treasury at the present time would seem not to be in a condition to justify it, if it can be well avoided.

The nation cannot avoid, if it would, its moral obligations to these people, and its Christian duty to save them from destruction and elevate them from their degraded, barbarous state if possible. These obligations and this duty follow us ever, and we cannot fail to discharge them towards all people with whom we are brought in contact without punishment and evil results to ourselves.

In the case of the Indians this obligation is peculiarly strong and binding. They were the original occupants, and hence original owners, of the soil as long as they chose to occupy it. They have surrendered to us vast tracts of most valuable country for which they have received little or no remuneration. They have carried on trade and commerce with our people in a friendly manner, and for many years have allowed our emigration to pass through their country unmolested. They admit their inferiority to us in all respects, and seem now to have gone to war for the purpose of averting the death and destruction of their race by famine.

It was therefore deemed the better course to invite all in the region of country visited by us to come in. None refused, and all stated that they desired to live at peace with the whites; but they could not see how they were to live, if the whites took and occupied all their game country. They all were willing to settle the present difficulties in a manner that should satisfy the United States.

In each band that has been at war, excepting the Minneconjoux, there is a strong peace party, numbering in the Ogallallas and Brulés about two thousand at the present time, who are under several chiefs near the forks of the Platte, and will require supplies of all kinds to be furnished them during the military operations. Properly protected and treated this party will soon become predominant in these two bands. It is, therefore, our opinion that the government

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can make peace with all the Indians of the northwest now hostile whenever it desires to do so.

The question of maintaining peace and securing the ultimate civilization of the Indians has been much considered and discussed by many wise men, and we approach it with hesitancy and distrust, for it has puzzled the wisdom of our statesmen and driven our philanthropists from it in despair.

Is there anything in their natural organization and constitution that precludes them from civilization and existence under the habits and customs of civilized society? If so, placing them upon reservations is, in effect, but confining them in a prison-house to meet a fate from hunger and lingering disease that would with less suffering soon have overtaken them in their natural roaming condition. Seen in their native state, and before they have been brought into contact with civilized men, the Indians have many of the noblest traits. They have great love for fame and glory, contempt for suffering and death, and not one element in their nature that will lead them under any circumstances to submit to any form or condition of slavery. They have quite correct and philosophical ideas of government and laws, all have belief in a future state, where the condition will depend upon conduct during earthly existence; they have good powers of thought and reason, and not a few of each tribe have the rare faculty of oratory.

Are there not sufficient traits and elements of character here by proper influence and training to develop into a noble civilized race? If there are not, it is impossible to see where the deficiency consists. They seem to be in no respect inferior to our European ancestors at and previous to the invasion by Cæsar; they are savage and nomadic, so were the European races; they are warlike and brave, so were the European races, perhaps, less so; they are superstitious and religious, so were the European races; they are revengeful, and so were the European races; and there seems to be nothing in their nature or condition to preclude them from civilization that might not be found in the nature and disposition of our ancestors, except that our ancestors, when overrun and crushed by the Roman power, submitted to the condition of slavery, whereas this race will all die free rather than live slaves. We, therefore, conclude, when we compare this race with any of those who, from a state of barbarism have risen to civilization, that we find them in no respect inferior, and that there is nothing in the natural organization and condition of the Indians to preclude them from civilization and mental culture, notwithstanding the unsatisfactory and terrible result of a century of efforts to that end on the part of our government.

But if their natural organization and condition does not preclude them from civilization and general development, then we must be pursuing an erroneous policy, or failing to carry a policy sound in itself into effect. For the result has been to drive an independent and lordly race into the condition of dependants and beggars; to convert generous, grateful, and noble spirits into craven, bitter, and degraded souls; to degrade and destroy the man and cultivate and develop the fiend.

The policy adopted towards Indians in the infancy of the republic was the result of much careful thought by our wisest and best statesmen and greatest philanthropists, and without stopping to compare it, and the reasons given for its support and adoption by such men as Washington, Adams, Chief Justice Marshall, and our Supreme Court by a uniform current of authority and decisions for three-quarters of a century, with the policy, opinions, and views of some of our public men and officers, we proceed to the consideration of our Indian policy as established by law and precedent, believing it to be in every way best adapted to the wants and condition of the Indians, and, at the same time, affording the greatest protection to our frontier settlements. It is not so important what policy is adopted and followed as that the government should have *some* policy. It is strange and anomalous that nothwithstanding all the branches of our government, from its infancy until now, have dealt most liber-

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ally with those members and nations of this race with whom they have come in contact, the result has been disastrous and must involve ruin.

What are the causes of this, and what remedies are proposed?

It was the early policy of our government, as it is the present, to keep the Indians as much as possible from mingling or coming in contact with the whites; for nothing is more clearly seen than that the mingling or contact of the races is destructive to the Indian. The elevating influences of our civilization are not found along our frontiers, near the borders of Indian reservations, and these people are made the objects of all its baneful influences with none of its virtues to counteract them. Under these circumstances and left to themselves they draw from the rose of civilization its virus only, and have no power to extract from it any healing balm.

Our public domain is now overrun by our own people; hence it is deemed unwise and impolitic to place tribes on small tracts or reservations, removed from other reservations and Indians, for no small reservations can be selected anywhere that will not soon be surrounded by the enterprising white settler, and all the evils of contact between the races are at once experienced by the Indian.

The only wise and prudent plan seems therefore to be to select a large and suitable section of country for the location ultimately of all the Indians east of the Rocky mountains and north of the Platte river and Iowa. This would be pursuing the same policy with the northern tribes that has been adopted and worked so favorably with the southern tribes; such action would soonest induce them to abandon nomadic habits and customs. The early Indian policy looked to this; but can it ever be satisfactorily accomplished by locating a tribe on a fine reservation for a time, and as soon as they have formed an attachment for it, and feel the excitements and attractions of home, move them off, by a compact made with a few chiefs led by various motives, to some other and distant land; but to have the same course repeated when civilization shall again overtake them.

Will such a course ever induce a people to abandon nomadic customs and habits? Apply such a course to a township or county of white people, and would it not within a few generations lead to the adoption of nomadic habits, feelings, and customs.

The original policy was to give them a reservation that they should hold, possess, and abide upon, far removed from contact with the whites. In carrying it into effect we give them a reservation where they may remain most of the time in contact with the whites, until the surrounding inhabitants demand their removal. This evil can only be remedied by reserving a large tract of country for the final home of all the northwestern Indians. Such an evil might not be the result under a different form of government; but no different result can be expected under ours, for all our public men depend upon the popular will for success, and are expected to act as its exponents.

When the advancing tide of our population has reached and passed any Indian reservation, the land rises in value from one dollar and a quarter, the government price, to five and ten dollars per acre; a demand is at once made upon the representatives and senators, by the surrounding inhabitants, to have the Indians removed; various reasons are given—the Indians steal, beg, &c.; and although the response "that you were not compelled to settle beside them," is a full answer to the demand, yet the demand must of course be at once made at Washington; courtesy requires compliance on the part of the Executive departments and the Senate; a few chiefs are induced to favor the proposition, and the Indians are removed against the will and protestations of nine-tenths of the tribe. The result to the Indian is decimation, starvation, and death. Thus, within four years, tribes have been removed against their most earnest

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protestations, and have lost, by death, forty per cent. of their entire number in eighteen months afterwards, as a result.

This evil, the most stupendous connected with our Indian policy, originating in our form of government, can only be remedied by the selection of some country that shall be set apart for and devoted exclusively to the use and benefit of Indians.

There will be another great advantage derived from this course. The early policy and well-established principles of our government recognized the absolute right of possession and occupation by the red men of the country over which they roamed and hunted. Hunting grounds were as much in their actual possession as the cleared fields of the whites, and their rights to its exclusive enjoyment, in their own way and for their own purposes, were as much respected, until they abandoned them, made a cession to the government, or an authorized sale to individuals, (United States Supreme Court Reports, 8th Wheaton, 571;) and their right of occupancy was considered as sacred as the fee-simple of the the whites, (5th Peters, 48.) This rule has been altogether departed from of late years. Appropriations have been made by Congress to adventurers to open wagon roads through their country, without consulting them; roads have been opened through and military posts established in their country without their consent. They would be false to their ancestors, their traditions, and to human nature itself, if, for these causes, they did not go to war. They have been to war and are now at war for these reasons, and our whole frontier population has lost all respect or thought even of Indian title or right to the soil. When entering the Indian country they feel as if they were on our own soil exclusively, and subject to our own laws and customs, whatever their conduct may be towards the inhabitants of the soil and occupants of the country.

The feelings of respect for Indian occupation and rights to the soil that were possessed by our ancestors will never be revived on the frontier, and it would be a most difficult task to enforce the laws in this respect. This evil, also, can only be remedied by the setting off of a sufficient tract and territory for the exclusive use and final home of the Indians of the northwest, and, by proper laws and regulations, protecting the territory and its inhabitants from all incursions of the whites.

Moved into one region of country, their rights could be secured by proper regulations and laws, while, under the present system, they have no rights, or, what is equivalent, they have no remedies for wrongs done and laws violated. The policy and laws of the government require that an agent be appointed for each tribe, with the view of securing to each their interests and perfect justice in all cases. The reports of the bureau and my own observation convince me that, in many instances, these men, appointed to secure and protect the interests of the Indians, have proved their worst enemies The nations and tribes have no redress in these cases; there is no tribunal before whom they can bring their case and ask justice. Our Supreme Court, since the days of that wise jurist and statesman, Chief Justice Marshall, has considered and treated them as domestic dependent nations; and yet they have not the rights in that or any other court that a sovereign State has, which needs its protecting arm much less than these nations. If the tribes, nations, and bands of Indians could be allowed to appear before a United States tribunal, and seek their remedies and secure their rights, nearly all the causes that lead to war would be removed, and we should rarely have any serious trouble with them. It is confidently believed that such a just privilege granted to them would have prevented the massacres, atrocities, and destruction of life in both races on the frontier during the last five years.

It was supposed by many that this privilege was granted the Indians by Congress by the first section of the "Act to establish a court for the investigation of claims against the United States," approved February 24, 1855; but the act amending the foregoing act, approved March 3, 1863, took from them this

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privilege, if it was granted, and this court has now no jurisdiction in any case or claim growing out of or dependent on any treaty or stipulation entered into with the Indian tribes. It has been feared by many of our patriotic men that, notwithstanding our generous action towards them, the portion of our history which records the dealings of our government with and its treatment of them would be its darkest and most disgraceful page. This page certainly will not be relieved or rendered more creditable by the record of the fact that we denied the Indians all right to be heard in our courts, all privilege to have their claims and complaints tested even by our own laws and judges; that we denied them the privilege granted to the inhabitants of every other land, and even to our slaves; and that in all cases of alleged grievances and faithless agents their only possible appeal was to arms.

This right to be heard in court should be granted them, whatever else is refused, and a tribunal designated, with power to take cognizance of all cases arising from wrongs and frauds for the last ten years. Rights without remedies, words without deeds, promises without performances, are properly appreciated by Indians.

I therefore recommend that the following section of country, or a similar section, be set apart for the exclusive use and final home of the Indians of the northwest, viz:

Commencing at the mouth of the Niobrara river, on the west bank of the Missouri; thence, along the west bank of the Missouri, at low-water mark, to the mouth of the Muscle Shell river; thence due south to the Yellowstone river; thence, in a southeasterly direction, and by a straight line, to the northwestern corner of the State of Nebraska; thence along the northern line of the State of Nebraska, to the place of beginning.

Many Indians of the northwest are now in the country above described, and nearly all will move there as soon as peace is restored with the whites. Much of the land on the river bottoms produces corn and cereals well, and stock can be raised with little difficulty.

Emigration and transportation would require few, if any, roads through this tract of country; none would be necessary if the travel by the northern route to Montana can be accommodated as well by a road running east and north of the Missouri river as far west as the mouth of the Muscle Shell river, and then west of that river to Montana.

If this cannot be done, one road through the country would be necessary, and could be opened no doubt by treaty.

There is little indication of mineral, and no talk, I think, of any, except in a small tract of country in the forks of the Cheyenne, and if a small amount of mineral should be left in the Indian country until it should be of some value to them, it would not be considered as any indication of an ungenerous and improper spirit on our part towards the Indians of this day by our posterity.

There is sufficient game in this country to supply many of the wants of the Indians for some years, and as it diminishes and they are brought to the necessity of making some provision for future wants, they will resort to agricultural or pastural occupation naturally and by instinct, and learn to rely upon personal effort, instead of the favors and generosity of their old, kind, and loving mother—the sole dependence of their ancestors. Here time, most essential to the civilization of barbarous races, can be allowed them, and it is confidently believed that the third generation, with proper legal protection, would be a comparatively elevated and civilized race.

Assistance should be afforded them of course, as to other Indians, in stock, supplies, agricultural implements, teachers, &c. These matters to be attended to as the occasion should arise. A court should be established in which all cases arising between them and the whites could be tried and determined.

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With a home and rights secured they would make rapid advancement in civilization.

The Indians have become dependent for many articles, considered by them of first importance, upon white traders. So dependent have they become that they will not long carry on war if all trade and intercourse is denied them. Located in a specific country, when hostile all intercourse with them can be terminated, and in this way they can be soonest and with least expense induced to abandon war and make peace.

It is important and essential that all just and main causes of war be early removed. We have endeavored to show some of them. The immediate causes of war with them are generally of the most trivial character. It is believed that in no war for the last twenty years, except the one now pending, has the immediate cause risen above the killing of a sore-footed Mormon ox by starving Indians to eat, the refusal by the overseer of some train to pay the accustomed five dollars per head to Indians for stampeded cattle driven back by them to the train, or the refusal of an Indian trader to give to Indians waiting for tardy annuities something to eat when requested. But these things are not the real causes of Indian war. They are simply the sparks that ignite the magazine of pent-up passions made hot and fiery by repeated and accumulated wrongs.

To the Indians of the plains who have surrendered their possession to vast regions of the finest hunting grounds on earth, more liberal aid as a general rule should be given for some years, and more attention paid to providing them with everything necessary to physical comfort and mental culture, during the first year of their occupancy of reservations. Sub-agents, teachers, farmers, smiths, mills, and buildings, should be provided them, with full authority to remove from office or suspend the official functions of any public officer who fails to do his duty. Reliable inspectors should be sent them every season or periodically to see that all officials perform their duty. The short time afforded the Indians to adopt civilized habits demands that the government should make the greatest effort in their behalf. The comfort and prosperity of those who go upon reservations would induce others to follow their example at once, while their suffering and destitute condition induces the wild Indian who visits them to look upon a reservation and fixed home with abhorrence and as the gloomy burial place of all his aspirations and hopes.

It is therefore recommended that arrangements and appropriations be made to locate and provide with suitable implements and stock one thousand Ogallalla and Brulé Sioux Indians on White Earth river by the first day of April, A. D. 1868. The Indians in Big Mouth's village and many in Spotted Tail's, Swift Bear's, and Two Strikes', have expressed a readiness and desire to go upon a reservation at once.

Whatever the government has agreed to pay them by treaty should be paid promptly, either in money or articles of prime necessity, and not in mosquito nets, umbrellas, and children's shawls, as has been done in some instances heretofore.

All goods and supplies should be delivered to the chiefs of the respective tribes, at the Indian villages, in bulk, and in unbroken packages. Selling the goods or giving them away to favorites by agents would thus be prevented, and the authority and power of the chiefs over their people much increased—a result most desirable; for when the chiefs have great influence the tribe is much more easily managed, as one man is more easily managed, than one hundred, one thousand, &c. The manner in which goods and presents have been distributed of late years has diminished and tended to destroy the influence of the chiefs.

The compensation of the officers of the bureau is inadequate for the business talent and integrity required for the faithful discharge of duty. It should be at once increased.

We have witnessed no case of fraud or wrong-doing on the part of any officer

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the present year, and it is believed that as ample authority and means exist in your department to correct all these evils as any department of the government, all the officers should be held to a more rigid accountability.

It is believed that no advantage can be derived from a change of the bureau from the present department to any other.

To transfer the duty of procuring and issuing Indian supplies to the quartermaster's department of the army, as it seems to have been conducted on the plains for a few years past, would undoubtedly be most detrimental to the public service, as the officers of that department seem to have conducted it most corruptly in many instances in that region and escaped punishment.

Moreover, the Indians seem to have lost all confidence in the officers of the military department now commanding some of our frontier posts. It is with great difficulty that they can be induced to come to a military post for a council. At the same time many officers of that department on the plains seemed to entertain and cherish the most bitter animosity and ill feeling towards the Indians. Officers of as high grade as captains and colonels openly proclaimed their purpose to kill all Indians with whom their commands came in contact, without regard to any conditions. Naturally enough, friendly Indians have ceased to consider military posts as places of security and protection to them, and all the friendly seem to approach some of these posts with fear. The Indians have not the proper feelings to be dealt with by the officers, and the officers have not the proper feelings to deal fairly with the Indians.

The want of complete harmony between the military and Indian department in the Indian country is exceedingly detrimental and leads to much of the existing trouble. The "whites" say, "the Indians seem to be divided into two parties—one party will not have peace at all, while the other is willing to have a good peace, and we don't know which party rules." The only remedy for this evil seems to be the change of the Indian Bureau into a department, with special military rank and authority vested in the Secretary over all troops stationed and doing duty in the Indian country, or a provision made by law that no movement should be made of any troops in the Indian country or near Indian reservations without the special request of the Secretary of the Interior, except along the regular roads passing through such country, unless in immediate pursuit of property stolen or criminals.

The small and weak garrisons in our Indian country are a great evil, and induce Indian wars as much as any one cause, for they neither inspire respect nor fear on the part of the Indians, and holding out the semblance of protection to emigrants lead them to travel in a most careless and unguarded manner, and thereby lay before the Indians temptations that, under the influence of his feeling of accumulated wrongs, he cannot or will not resist, and depredations and war follow.

Hence we see that the war of 1854, on the North Platte, commenced when there was but one company in garrison at Laramie, and the war of 1862, in Minnesota, commenced when there were not more than two hundred men on duty in three posts, covering four hundred miles of frontier.

Like children and all people in an uneducated and natural state, fear of speedy punishment exercises the largest influence upon them, and when they have no such fear and an opportunity presents itself to them to gratify revenge, passion or caprice, they are certain to yield, and then war follows. Hence all military garrisons in or adjacent to their country should be sufficiently large to punish at once any wrong or outrage committed by them. A few, perhaps a single instance of immediate punishment would stop all depredations and war. Tardy punishment with them has no practical lesson and no moral. If sufficiently large garrisons cannot be provided, it would be better to withdraw them altogether.

The garrisons for the past year at Forts Reno, Philip Kearney, and C. F. Smith, while they have put the government to great expense, have neither af-

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forded protection to emigration, nor been able to punish properly Indians for outrages committed; and the Indians have thereby been inspired with more confidence in their ability to cope with the whites than they have ever before had. It would be far better to withdraw all troops from that country and line of travel at once, than to have the results of the small garrisons there last year repeated again this year.

Moreover, the government has already expended in opening this route, including the cost of the expedition under General Connor in 1865, not less, probably, than twenty millions of dollars. From the best information we could obtain we conclude that very few emigrants or citizens have ever attempted to pass over the road, and it seems that the question of abandoning this route altogether deserves the serious consideration of the proper department of the government. Emigrants should not be deceived as to the advantages, security, or hazard of the route to the mountains.

It is also of the greatest importance that in the civil and military service in the Indian country experienced officers in Indian character and habits, and officers familiar with the tribes they are to come in contact with, be placed on duty. Tribes should be consulted as to the appointment of their agents, when practicable. Acts done and words spoken that would have a favorable effect on some tribes will lead to war with others. As an instance, while some tribes would feel honored by a friendly visit from soldiers, the Cheyenne tribe, since their women and children were killed and scalped and cut to pieces by soldiers that they supposed friendly, at Sand creek in 1864, would be drawn to war by the approach of soldiers.

My recommendations, then, are as follows, viz:

1st. That aggressive war by the government against the Indians at once cease, and that all our troops in the Indian country be used defensively for garrisoning our forts, protecting our railroad interests, lines of travel, and frontier settlements, and punishing the Indians, if possible, when committing depredations on our lines of travel or out of their own country; and that commissioners be sent at once to counsel with them.

2d. That the tract of country hereinbefore described be withdrawn from public survey and sale, and at once set apart by solemn enactment for the sole purpose of a final home and reservation for all the Indians of the northwest, and that Congress, by an act similar to the first section of the act of June 30, 1864, define the Indian country and reservations, or by law require the President to designate, and by proclamation make known on a day certain each year, the country and tracts of country in the United States in the exclusive possession and occupation of the Indian tribes, with such portions of our laws as affect the rights of the whites and Indians in this country.

3d. That a proper court or tribunal be organized or empowered to take cognizance and jurisdiction of cases and claims by Indians for wrongs and frauds alleged to have been done or committed against them by the government or whites, with the right of either party to appeal to the Supreme Court.

4th. That the Indian Bureau be organized into a department, with full authority to control and manage all troops in the Indian country; or, if this cannot be done, then that provision be made by law that no troops shall be moved into the Indian country except in the cases hereinbefore specified, unless specially requested by the Secretary of the Interior.

Recommendations as to inspectors, manner of distributing goods, accountability of officers, preparations for agricultural pursuits, and all other minor points, are made under the proper heads in the foregoing report; all of which is respectfully submitted.

JOHN B. SANBORN,
Special Indian Commisssioner.

Hon. O. H. BROWNING,
Secretary of the Interior.

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No. 1.

UPPER ARKANSAS AGENCY,
Fort Larned, Kansas, February 21, 1867.

SIR: I have the honor to report having seen various newspaper accounts of the depredations committed by Indians, and that as far as regards this section of country, or includes the Indians of my agency, they are entirely false. I can state positively that since the council held by Messrs. Bogy and Irwin with the Indians of my agency, not one single overt act has been committed by these Indians up to the present time. I have been among them constantly, and never knew them to feel better satisfied or exhibit such a pacific feeling. The only complaint that they now make is that the captive Indian children are not returned to them in accordance with promises made to that effect by the government; and in connection therewith, I would respectfully call the attention of the Commissioner to the fact that one of those children is known to be in Colorado, and can easily be procured, and also that, in reply to a communication from your office with reference to the same matter, I stated that the Indians still insist upon the government fulfilling its pledges to them by returning the children.

My experience teaches me that a source of much difficulty with the Indians arises from the fact of the government not being prompt in fulfilling its promises, particularly heretofore delaying the delivery of the annuity goods to a period far beyond the time that they should be received. I would earnestly recommend that the next issue be allowed to be made as early in the spring as possible. The Indians become very much scattered after grass comes, and are always better satisfied to receive their goods when they are congregated together.

In conclusion, I would respectfully state that the Indians have lately exhibited a slight feeling of apprehension in consequence of the order stopping the trading of arms and ammunition to them, imagining that the same bodes them no good. The small quantity of ammunition traded to them would be of no account to them in case of future hostilities. They also claim the right to trade for those articles in accordance with the provisions of their treaty, they being recognized as being at peace. A matter of this kind is calculated to do more harm than good.

I have the honor to be, sir, with much respect, your obedient servant,

E. W. WYNKOOP,
U. S. Indian Agent for Arapahoes, Cheyennes, and Apaches.

HON. LEWIS V. BOGY,
Commissioner of Indian Affairs, Washington, D. C.

No. 2.

HEADQUARTERS, FORT LARNED, KANSAS,
March 6, 1867.

SIR: In compliance with General Orders No 3, headquarters district Upper Arkansas, I have the honor to make the following report:

On last Thursday, the 28th of February, a small party of Cheyennes went to a ranch about six miles below this post, kept by a man by the name of Parker, and ordered him to cook supper for them. He had to comply, and they, on finding that he had no sugar to give them, threatened his life, and would undoubtedly have killed one of his men if he had not concealed himself. At such a distance from the post I could, of course, know nothing of the occurrence when it happened. It was reported to me two days after.

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Roman Nose, a chief the Dog soldiers, came in a day or two ago to see his agent, Colonel Wynkoop; a half-breed interpreter came with him, and reports that everything in their camp is quiet, and very little is said, their attention being directed to the operations up on the Platte. The Dog soldiers are camped about seventy miles up the Pawnee fork, on one of its forks. They have runners and carriers in almost every day from the north.

I am, sir, very respectfully, your obedient servant,

HENRY ASBURY,
Captain Third U. S. Infantry, Brevet Major U. S. A., Commanding.
ASSISTANT ADJUTANT GENERAL,
District Upper Arkansas.

[Indorsements.]

HEADQUARTERS DEPARTMENT OF MISSOURI,
Fort Leavenworth, Kansas, March 16, 1867.

Official copy respectfully forwarded for the information of the honorable the Secretary of the Interior.

WINFIELD S. HANCOCK,
Major General Commanding.

DEPARTMENT OF THE INTERIOR, *March* 27, 1867.

Respectfully referred to the Indian Bureau.

JOHN C. COX, *Chief Clerk.*

No. 3.

OMAHA, NEBRASKA, *March* 9, 1867.

Sir: As you requested me to write you frequently to let you know how we prospered, I take this occasion to do so, in a semi-official manner, my letter forming no part of the official records of the commission.

The telegram from Secretary Browning was received yesterday, and we will move west in a few days, as soon as it is possible for us to do so, for, at present, a terrible snow-storm is raging which will block the roads, and for the past few days back it has been snowing out west harder than is usual in that section of country, thus stopping all travel at present. But the commission, while here, have not been idle, or unprofitably employed, and have succeeded in procuring a large amount of testimony from officers and citizens lately from Fort Phil. Kearney; the mystery of this terrible massacre begins to develop itself, but the commission are not yet prepared to pass final judgment on the case. One thing, however, I think we can say with certainty, and that is, that a considerable band of Indians, supposed to be all Sioux, or generally so, are in that section of country, who are hostile to the whites, and have been so for many years, and are determined to do all they can to make that country too hot for us to occupy or travel through. We see no other course for the government to adopt than to turn them over to the military for severe punishment, and follow this band up until they sue for peace, or are driven out of that section of country. We are not prepared, at present, to state the cause of this trouble, but, from all we can learn, it appears to date back to the late treaty at Laramie.

Red Cloud, the reported chief of the hostile band, and his principal Indians, refuse to sign the treaty, or allow a road through their country. The unusual success he and his band met with in all their conflicts with the whites, military and civil, has rendered them bolder than Indians generally are.

Thus troops will have to be sent to operate against these Indians. If they

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attack these Indians only, and do not disturb those who are friendly and peaceable, it will be well; but there is always danger that this rule, through ignorance may not be strictly adhered to, or the effect of troops marching through certain sections of country may frighten off these friendly bands, and drive them north, where they may be forced to join the hostile party, and thus a general Indian war instituted.

It will require the greatest judgment and prudence on the part of military commanders to avoid causing so great a calamity. The commission will do all they can, by suggesting what localities should not be visited by the military: this is all we can do in the matter. It is not known, positively, how large a number compose this warlike band of Indians, but we think not as large as is generally represented. They, however, may succeed in gaining or driving more adherents into their ranks. The commission will do all in their power to prevent this. At the same time they request the co-operation of the military; in connection with this we would respectfully suggest the propriety of the department corresponding with the commanding officers of Forts Union, Berthold, Rice, and Sully, on the Missouri river, with a view of ascertaining what Indians were engaged in the late massacre, the feeling of the Indians there, and every exertion made to prevent, as far as possible, any of the young men of the band of Sioux on the Missouri from joining this hostile band. Perhaps it would be well for the commission, if they have time, to visit the Missouri river, with this object; at least, some one who has influence with this band should be sent.

I do not think it will be necessary for this commission to go further than Fort Laramie; that is our present opinion—circumstances may change it. General Augur has expressed a wish to accompany us as far as Fort McPherson, and we are glad to have him with us. There we are to meet the chiefs of some of the friendly bands of Sioux and Cheyenne Indians.

This letter has been submitted to the sanction of the commission, and meets their hearty approval.

With much respect, your obedient servant,

ALF. SULLY,
Brevet Brigadier General, President of Commission.

Hon. L. V. Bogy,
Commissioner of Indian Affairs, Washington, D. C.

No. 4.

[Telegram.]

Omaha, *February* 7, 1867.

Hon. L. V. Bogy, *Commissioner of Indian Affairs:*

We hear, unofficially, that General Hancock is to move with troops in a few days up the Republican, and in view of the fact we think it of great importance to the successful accomplishment of the object of our commission that we move as soon as possible, so as to be in the vicinity of the Indian camps near that river, said to be friendly, before the arrival of the troops destined to operate there, because the movement of troops into that section before our arrival may have the effect of driving these friendly Indians to the north, into the country now occupied by the hostile Indians, and on this account we would respectfully suggest that you send us orders immediately.

ALF. SULLY,
Brevet Brigadier General, President.

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No. 5.

UPPER ARKANSAS AGENCY,
Fort Larned, Kansas, March 22, 1867.

SIR: I have the honor to enclose to you copies of communications just received from Major General Hancock, and from headquarters of the military district. I think that no trouble will arise in consequence of General Hancock's expedition, as the Indians of my agency are well satisfied and quiet, and anxious to retain the peaceful relations now existing.

I have the honor to be, with much respect, your obedient servant,

E. W. WYNKOOP,
U. S. Indian Agent, Upper Arkansas Agency.

Hon. LEWIS V. BOGY,
Commissioner Indian Affairs, Washington, D. C.

No. 5 A.

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
Fort Leavenworth, Kansas, March 11, 1867.

SIR: I have the honor to address this letter to you for the purpose of informing you that I have about completed my arrangements for moving a force to the plains, and only await a proper condition of the roads to march.

My object in making an expedition at this time is, to show the Indians within the limits of this department that we are able to chastise any tribes who may molest people who are travelling across the plains. It is not our desire to bring on difficulties with the Indians, but to treat them with justice and according to our treaty stipulations, and I desire especially in my dealings with them to act through their agents as far as practicable.

In reference to the Cheyennes of your agency, in particular, I may say that we have just grounds of grievance. One is, that they have not delivered up the murderer of the New Mexican at Zarah. I also believe that I have evidence sufficient to fix upon different bands of that tribe, whose chiefs are known, several of the outrages committed on the Smoky Hill last summer. I request that you will inform them, in such a manner as you may think proper, that I expect shortly to visit their neighborhood, and that I will be glad to have an interview with their chiefs; and tell them, also, if you please, that I go fully prepared for peace or war, and that hereafter I will insist upon their keeping off the main lines of travel, where their presence is calculated to bring about collisions with the whites.

If you can prevail upon the Indians of your agency to abandon their habit of infesting the country traversed by our overland routes, threatening, robbing, and intimidating travellers, we will defer that matter to you. If not, I would be pleased by your presence with me when I visit the locality of your tribes, to show that the officers of the government are acting in harmony.

I am, sir, very respectfully,

WINFIELD S. HANCOCK,
Major General Commanding.

Colonel E. W. WYNKOOP,
Agent for Cheyennes, Apaches, and Arapahoes,
Fort Larned, Kansas.

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No. 5 B.

HEADQUARTERS FORT DODGE,
Kansas, March 14, 1867.

MAJOR: In answer to your communication, February 21, (just received,) relating to the names of the chiefs or bands of Indians who are or have been making threatening demonstrations, or sending insulting messages, I have the honor to state that I have received from Little Raven, head chief of the Arapahoes, a message to the effect that no more wood must be cut by this command on the Pawnee Forks, and that the troops must move out of the country by the time grass grows.

Mr. Jones, the interpreter at this post, brought me a message from Satanta, the principal chief of the Kiowas, to the effect that all white men must move east of Council Grove by the spring; that he gave me ten days to move from this post; that he wanted the mules and cavalry horses fattened, as he would have use for them, for he intended to appropriate them; that all the Indians had agreed to stop the railroads and roads at Council Grove; that no roads or railroads would be allowed west of that point.

Major J. H. Page, third infantry, brought me a message from the same chief: "Tell the chiefs on the road that they must gather their soldiers and leave; if they don't, I will help them to leave. No wagons will be allowed on the road, except those that bring presents. If any are found, they will be taken."

Subsequently, in council, Satanta stated, in substance, the same, but not in an insulting manner, which has already been reported to district headquarters.

It has been reported to me that eight Arapahoes, apparently friendly, stopped on the 10th instant at the camp of a Mr. Gilchrist, a wagon-master for a Mr. H. Wedello, of Mora, New Mexico, on the other side of Fort Aubrey, (120 miles from here,) shot at the herder, and ran off forty head of mules and one mare. The extreme severity of the weather, together with the refusal of the man who reported the fact to act as guide and put a party on their trail, prevented me from attempting their recovery.

I am, sir, very respectfully, your obedient servant,

H. DOUGLASS,
Major Third U. S. Infantry, Commanding Post.

Brevet Major HENRY E. NOYES, *A. A. A. G.*,
Headquarters District Upper Arkansas.

A true copy:

C. McKEEVER,
Assistant Adjutant General.

No. 5 C.

HEADQUARTERS DISTRICT OF THE UPPER ARKANSAS,
Fort Riley, Kansas, March 14, 1867.

COLONEL: The brevet major general commanding directs me to inform you that Wilson Graham, the Cheyenne boy who was captured from that tribe some time since, is now *en route* to this post. As soon as he arrives he will be sent to you in order that he may be delivered to his nearest relatives.

Please inform this office of the name and band of his nearest relations.

I am, Colonel, very respectfully, your obedient servant,

HENRY E. NOYES,
Capt. Second Cavalry, Brevet Major, U. S. Army, A. A. A. G.

Colonel E. W. WYNKOOP,
United States Indian Agent.

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No 6.

ST. LOUIS, MO, *March* 28, 1867.

SIR: I have the honor to report that in obedience to instructions, dated 9th instant, I arrived here yesterday, called on General Sherman, who informed me the Cheyenne boy had been sent to General Hancock to be delivered to the friends of the boy in presence of their agent. Lieutenant General Sherman informs me that General Hancock is moving towards the Cheyenne and Kiowa Indians, near Fort Larned, to hold councils with them. I shall leave this afternoon, and join General Hancock's headquarters as soon as possible.

Any and all communications for me should be addressed to me at Fort Zarah, Kansas.

Colonel W. W. Bent is here, and goes out with me this afternoon.

Very respectfully, your obedient servant,

J. H. LEAVENWORTH,
United States Indian Agent.

HON. COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

No. 7.

AGENCY COMANCHE AND KIOWA INDIANS, UPPER ARKANSAS,
Fort Larned, Kansas, April 9, 1867.

SIR: By letter from the department, of the 9th ultimo, I was directed to proceed to St. Louis, Missouri, there to receive from Lieutenant General Sherman a Cheyenne Indian boy, captured by the troops under Colonel J. M. Chivington at the Sand Creek affair, and deliver him to the agent of the Cheyenne Indians at this post. In compliance with the above orders I proceeded to St. Louis and presented my letters of instructions to General Sherman, who informed me the Indian boy had been forwarded to Major General Hancock "to be delivered to the Indians in the presence of their agent." From St. Louis I proceeded to Leavenworth City, thence to Fort Zarah, Kansas, via Forts Riley and Harker. At the latter post (Harker) I passed Major General Hancock, with his command, *en route* for the plains. I arrived at Fort Zarah, Kansas, on the 3d instant. General Hancock arrived there on the 5th, with his whole command, consisting of artillery, cavalry, and infantry, about 1,500 strong. I immediately called upon him and requested information as to the object of his movements, so far as they related to the Indians of my agency, viz., the Comanches and Kiowas. He very kindly and promptly furnished me with the enclosed papers, marked A, B, and C. As none of the Indians of my agency have visited this great line of travel except a very few since they received their annuity goods last October, and as it was uncertain what portion of his department he might visit with his command, he expressed a wish that I would accompany him, and, as I believed it to be eminently proper, I willingly consented; and should anything occur concerning the Indians of my agency, or the interests of the Indian department generally, I shall make full report of the same. I will state, for the information of the department at Washington, that the Cheyenne boy I was sent to St. Louis for is now here with General Hancock, and that Major Wynkoop, the agent of the Cheyenne Indians, is also here, who will, without doubt, report all of interest relating to the boy and the Indians of his agency.

I am, sir, very respectfully, your obedient servant,

J. H. LEAVENWORTH,
United States Indian Agent.

HON. N. G. TAYLOR,
Commissioner of Indian Affairs, Washington, D. C.

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No. 7 A.

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
Fort Leavenworth, Kansas, March 11, 1867.

COLONEL: I have the honor to state, for your information, that I am at present preparing an expedition to the plains, which will soon be ready to move. My object in doing so at this time is to convince the Indians within the limits of this department that we are able to punish any of them who may molest travellers across the plains, or who may commit other hostilities against the whites. We desire to avoid, if possible, any troubles with the Indians, and to treat them with justice and according to the requirements of our treaties with them, and I wish, especially, in my dealings with them, to act through the agents of the Indian department, as far as it is possible so to do.

Concerning the Kiowas of your agency, we have grave reasons for complaint. Among others, it is officially reported to these headquarters that that tribe has been making hostile incursions into Texas, and that a war party has very recently returned to Fort Dodge, from that State, bringing with them the scalps of seventeen (17) colored soldiers and one (1) white man. I am also informed that the Kiowas have been threatening our posts on the Arkansas; that they are about entering into a compact with the Sioux, for hostilities against us, and that they have robbed and insulted officers of the United States army, who have visited them, supposing that they were friends. It is well ascertained that certain members of that tribe (some of whom are known) are guilty of the murder of Mr. James Box, a citizen of Montague county, Texas, last summer, and of the capture and barbarous treatment of the women of his family. I desire you particularly to explain to them, that one reason why the government does not at once send troops against them to redress these outrages against our people is, that their Great Father is averse to commencing a war upon them (which would certainly end in destroying them) until all other means of redress fail. I request that you will inform the Indians of your agency that I will hereafter insist upon their keeping off the main routes of travel across the plains, where their presence is calculated to bring on difficulties between themselves and the whites. If you, as their agent, can arrange these matters satisfactorily with them, we will be pleased to defer the whole subject to you. In case of your inability to do so, I would be pleased to have you accompany me, when I visit the country of your tribes, to show that the officers of the government are acting in harmony. I will be pleased to talk with any of the chiefs whom we may meet.

I am, sir, very respectfully, your obedient servant,

WINFIELD S. HANCOCK,
Major General Commanding.

Colonel J. H. LEAVENWORTH,
U. S. Indian Agent for Comanches and Kiowas.

No. 7 B.

HEADQUARTERS DEPARTMENT 19TH U. S. INFANTRY,
Fort Arbuckle, C. N., February 16, 1867.

COLONEL: I have the honor to state that, previous to my arrival here, a roving band of Indians had made a raid in the vicinity, carrying off stock, chiefly horses, and a negro child, from within a few miles of the post. Brevet Lieutenant Colonel Hart, commanding, sent in pursuit the Caddo Indian scouts, who, after more than a week's absence, returned without any intelligence as to the number, tribe, or probable course of the robbers. I had just learned from Horace P. Jones, (white man,) who is an old resident, and has for some years

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acted as interpreter for many of the tribes of Indians on this frontier, that the band consisted of twenty-five (25) Comanches, belonging to the Cochataker tribe, (Buffalo Eaters,) the head chief being Mahwee. About two weeks after their depredations here they were met in the neighborhood of Fort Cobb, and gave chase to Samuel Paul and Dr. J. J. Stearn, (white,) the latter being the issuing commissary of the reserve Comanches, who are reputed friendly. These men were saved by the aid of Toschowa, head chief of the reserve Comanches. This chief also recovered five (5) of the horses which had been stolen from the vicinity, but failed in his efforts to regain the captured negro child. These facts were obtained by Mr. Jones from Toschowa himself, who requested they might be made known to these headquarters. In this affair Toschowa was brought in collision with Indians of his own tribe, with whom he had formerly acted, and he felt the necessity of avoiding the consequences of an open rupture. His conduct displays admirable discretion under the circumstances. I have the honor to state further, that several other tribes than the Comanches have lately been noticed on the war path, having been seen in their progress in unusual numbers, and without their squaws and children, a fact to which much significance is attached by those conversant with Indian usages. It is thought by many white residents of the Territory that some of these tribes may be acting in concert, and that plundering incursions are, at least, in contemplation. George Washington, second chief of the Caddoes, a friendly tribe, is of the opinion that the wild Comanches are bent upon mischief. Since the date of the treaty made at the mouth of the Little Arkansas, I believe on the 6th of October, 1865, in which the Cochataker Comanches joined, they and other contracting parties to the treaty have carried off a large amount of stock in violation of its provisions, and have slain and made captive many white persons, held on speculation, to be ransomed. The practice of the government of condoning these offences, by the payment of liberal sums, has had the natural effect of encouraging this inhuman traffic among the Indians, and every day of its continuance adds difficulties to the return to what I deem a wiser and sterner policy, and one that would ultimately be the most humane. My inexperience in the exigencies of the frontier causes me to defer to the views of such sensible white residents and others as, from long residence among the Indians, are competent to advise, and this communication, while it expresses my own, is more particularly the embodiment of their views. In a communication made on the 12th instant I had the honor to apply for ten (10) additional companies to re-enforce this post, and I respectfully suggest the subject-matter of this communication as additional reason for the proposed re-enforcement.

I have the honor to remain, very respectfully, your obedient servant,

E. L. SMITH,
Captain 19th U. S. Infantry, Brevet Major U. S. A., Comd'g Post.

Colonel O. D. GREEN,
A. A. G. Department of Arkansas, Little Rock, Arkansas.

Official copy respectfully furnished for the information of Colonel J. H. Leavenworth, Indian agent.

W. S. MITCHELL,
Captain and A. A. A. General.

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[Indorsement.]

HEADQUARTERS OF THE ARKANSAS, *March* 5, 1867.

From the fact that these Indians steal from these frontiers, and have supplied themselves with large caballas; that they are supplying horses to the northern Indians on the railroad and mail routes, I think it important to put a stop to their wholesale plundering. I propose building posts in their country, as that demoralizes them more than anything else except money and whiskey.

Respectfully forwarded:

E. O. C. ORD,
Brigadier General Commanding.

Forwarded from headquarters military division of the Missouri.

By order of General Sherman:

W. S. MITCHELL,
Acting Assistant Adjutant General.

No. 7 C.

[General Field Orders No. 1.]

HEADQUARTERS DEPARTMENT OF THE MISSOURI, IN THE FIELD,
Fort Riley, Kansas, March 26, 1867.

1. * * * While on the march and in camp, the troops composing the present expedition will receive orders from Brevet Major General Smith, commander of the district of Upper Arkansas, in whose territory we are about to move. When instructions may be necessary, General Smith will receive them from the major general commanding, who will be present.

2. * * * It is uncertain whether war will be the result of the expedition or not; it will depend upon the temper and behavior of the Indians with whom we may come in contact. We go prepared for war, and will make it if a proper occasion presents. We shall have war if the Indians are not well disposed towards us. If they are for peace, and no sufficient ground is presented for chastisement, we are restricted from punishing them for past grievances which are recorded against them; these matters have been left to the Indian department for adjustment. No insolence will be tolerated from any bands of Indians whom we may encounter. We wish to show them that the government is ready and able to punish them if they are hostile, although it may not be disposed to invite war. In order that we may act with unity and in harmony with these views, no one but the commander present, on detachment or otherwise, will have interviews with Indians. Such interviews as may be necessary with them will be reserved, and corresponding reserve will be required from those under his command. No Indians will be allowed in camp, and no "talks" will be had with them except for the purpose of explaining to them the facts herein stated. The chiefs of any bands of Indians who may wish any information will be referred to the major general commanding, who will see them at his headquarters.

* * * * * * * *

By command of Major General Hancock:

W. S. MITCHELL,
Captain and A. A. A. General.

Official copy respectfully furnished for the information of Colonel J. H. Leavenworth, United States Indian agent.

W. S. MITCHELL,
Captain and A. A. A. General.

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No. 8.

AGENCY KIOWA AND COMANCHE INDIANS, UPPER ARKANSAS,
Pawnee Fork, 31 miles from Fort Larned, April 15, 1867.

SIR: Knowing the wish of the department to learn all pertaining to the military expedition of Major General Hancock, I will state that a council was held near Fort Larned by General Hancock and some of the chiefs of the Cheyenne tribe of Indians, at which the Indians, I was informed, expressed themselves very friendly. General Hancock marched for Fort Dodge on the 13th instant, advanced upon the Pawnee Fork 21 miles, in the direction of a camp of about two hundred lodges of Cheyennes and Sioux. General Hancock was visited that evening by chiefs from both tribes, and informed that his approach towards their camp caused great anxiety among their squaws and children. On the 14th General Hancock again resumed his march in the direction of their village, and was met some five or six miles from their town by a white flag, and earnestly requested not to approach any nearer, but he still advanced, and went into camp about 3 o'clock p. m. a short mile below their lodges, when it was found all their women and children had left with what few articles they could hastily gather, leaving their lodges and a large amount of their property just as they had been occupying their homes; some one hundred or more of their warriors were still in camp, armed and apparently ready for fight. Some of their chiefs called upon General Hancock, and he wanted their women and children back, as no harm was intended them, and furnished two chiefs good horses to go for them. In the evening the two horses were returned, and he was informed they had so scattered they could not be found; and at the same time information was brought that the warriors were now coming, when cavalry was advanced out and their village surrounded and searched, but nothing was found but as stated above, and one old Sioux, and a girl of about eight years of age, blind in one eye and horribly ravished. This morning she was brought to camp and properly cared for. Some suppose her white, others part white; while others pronounce her Indian. It is evident she is not a Cheyenne or Sioux. She was a pitiful object, indeed. Many of their lodges were found cut as though the party wished for a small part to make a small "tepee" for a night's lodging in a rapid march. This morning General Custer pursued with a heavy body of cavalry.

This is only to the department to let them know that there are stirring events on this frontier. Major Wynkoop is exerting himself all he can in the line of his duty, and will without doubt make as soon as possible full reports. In haste.

Very respectfully, your obedient servant,

J. H. LEAVENWORTH,
United States Indian Agent.

Hon. N. G. TAYLOR,
Commissioner of Indian Affairs.

CAMP ON PAWNEE FORK,
Thirty miles west of Fort Larned, April 15, 1867.

SIR: I write in haste, as a courier is about leaving camp. I am with General Hancock's expedition, having accompanied him at his request, as he stated that it was his intention to hold a council with the principal men of the tribes of my agency. I am sorry to say that the result of the expedition is disastrous.—General Hancock marched his column right up to the Indian village, composed of 300 lodges of Cheyennes and Sioux, and found, on halting, the women and children had fled, and the men were alone occupying the camp; he ordered the chiefs to bring back the women and children, and they started for the purpose of endeavoring to do so, but soon returned and stated that it was impossible,

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and during the night the men deserted their village, leaving their lodges with all the furniture of the same.

General Hancock has sent General Custer with a cavalry command in pursuit. Understanding that it was the intention of General Hancock to destroy the lodges and other property left in the village, I have written him a letter of remonstrance, as I am perfectly convinced that the conduct of the Indians was the result of intense fear. I am fearful that the result of all this will be a general war, which is much to be deprecated, as there are many unprotected whites on the different roads across the plains, and at the mail stations and ranches. I will report in full the first opportunity.

I have the honor to be, sir, with much respect, your obedient servant,

G. W. WYNKOOP,
U. S. Indian Agent for Arapahoes, Cheyennes, and Apaches.

Hon. N. G. TAYLOR,
Commissioner of Indian Affairs, Washington.

No. 10.

DEPARTMENT OF THE INTERIOR, OFFICE INDIAN AFFAIRS,
Washington, D. C., April 24, 1867.

SIR: I have the honor to submit herewith, for your information, a copy of a letter from Agent Wynkoop, dated 15th instant, and of one from Agent Leavenworth, of the same date, this day received, relative to General Hancock's expedition against the Cheyennes.

Very respectfully, your obedient servant,

N. G. TAYLOR, *Commissioner.*

Hon. O. H. BROWNING.

No. 11.

SAME CAMP AS ON 15TH,
Mile from Indian Village, on Pawnee Fork, April 17, 1867.

SIR: I have but little to communicate, except General Hancock has determined not to burn the Indian lodges, but has ordered every article taken from their villages returned, and that General Custer reports he has not seen any Indians he was in pursuit of. Fifteen hundred Indians escaped, and not one seen. He reports he should march for the Smoky Hill on the evening of the 16th, at 7 p. m., from the head of Walnut creek.

In haste, very respectfully, &c.,

J. H. LEAVENWORTH,
United States Indian Agent.

Hon. N. G. TAYLOR,
Commissioner of Indian Affairs.

Cheyennes, without doubt, gone south; Sioux, north.

No. 12.

CAMP ON PAWNEE FORK, 32 MILES WEST FORT LARNED,
April 18, 1867.

SIR: I have the honor to state that since my last communication a few days back, in which I spoke of the flight of the Indians upon General Hancock's approach, and his intention to destroy the village, I have written a communication to General Hancock, a copy of which I enclose; have received no written

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reply, but he stated to me verbally that for the present he would not destroy the village. In my last letter I also stated that General Custer was in pursuit of the Indians; a courier has since arrived from him with the information that the Cheyennes had turned and gone towards the Arkansas river, while the Sioux had continued northward. He followed the Sioux trail, and the last despatch from him is to the effect that the Sioux, upon crossing the Smoky Hill road, had destroyed a ranch or mail station, and killed three men. Since receiving this news General Hancock has again expressed his determination to destroy the villages. I have again appealed to him on behalf of the Cheyennes, as their village is distinct from the Sioux, and as yet there is no evidence of their having committed any overt act since their flight; and he has promised me to consider the matter. Under the circumstances in which the Indians left here—in my judgment being fully impressed with the belief that General Hancock had come for the purpose of murdering their women and children, as had previously been done at Sand Creek—I have no doubt but that they think that war has been forced upon them, (the Cheyennes,) and will commence committing depredations and following their style of warfare immediately. Thus, in my opinion, has another Indian war been brought on, which might have been averted by the military authorities pursuing a different line of policy. I will continue with General Hancock as long as there is any probability of his falling in with any of the Indians of my agency, for the purpose, as far as lies in my power, of subserving the interest of the department. As soon as possible I will submit to your office an inventory of the effects of both the Cheyenne and Sioux villages.

I am, sir, with much respect, your obedient servant,

E. W. WYNKOOP,

U. S. Indian Agent for Arapahoe, Cheyenne, and Apache Indians.

Hon. N. G. TAYLOR,

Commissioner of Indian Affairs, Washington, D. C.

No. 12 A.

CAMP ON PAWNEE FORK,

April 13, 1865.

GENERAL: For a long time I have made the Indian character my chief study. I regard the late movement of the Cheyennes of my agency as caused by fear alone, so far as I am able to judge. They met us at first with a determination to have a peaceful talk, at such a distance from their village as would make their women and children satisfied that no danger need be apprehended by them. Your movement toward the village terrified the squaws and children, who left with such movable property as they could gather. I learn that you propose destroying the lodges and other property now remaining in the village. I would most respectfully request you not to do so. I am fully convinced that the result would be an Indian outbreak of the most serious nature, while at the same time there is no evidence in my judgment that this band of Cheyennes are deserving of this severe punishment. I am influenced alone in thus communicating with you by what I consider a strict sense of duty.

With feelings of the utmost respect, I am, general, your obedient servant,

E. W. WYNKOOP,

U. S. Indian Agent for Arapahoe, Cheyenne, and Apache Indians.

Major General W. S. HANCOCK,

Comd'g Dep't of Missouri and Indian Expedition.

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No. 13.

[Telegram.]

CALIFORNIA CROSSING, 25 MILES EAST OF FORT SEDGWICK,
April 20, 1867.

Hon. N. G. TAYLOR, *Commissioner Indian Affairs:*

Your telegram of the 16th instant just received, and will be attended to. After great difficulty, we have succeeded in getting the Ogallala and Brulé Sioux in for a talk, representing three hundred and fifty lodges. We have made a satisfactory arrangement with them, and I think we can say with safety that we have prevented over seven hundred warriors from joining the war party. We leave Fort Sedgwick for Laramie in three or four days, and hope to be successful in preventing many more Sioux from joining the hostile party. I suppose you know there has been much difficulty in the road to Laramie from hostile Sioux. This will greatly increase our difficulties and expenses. Will write by mail.

ALF. SULLY,
Brevet Brigadier General, President Commission.

No. 14.

FORT DODGE, KANSAS, *April* 21, 1867.

SIR: I write hastily, as a mail is about leaving, to inform you that on the 19th instant General Hancock burned the Indian village, three hundred lodges, Sioux and Cheyennes. I know of no overt act that the Cheyennes have committed, to cause them to be thus punished, not even since their flight. I have just arrived with General Hancock's column, at this post, and learned since my arrival here that a few days ago six Cheyennes Indians, on foot, were attacked by one hundred and thirty cavalry about twenty-five miles west of this post, and all of them killed. I also learned that they had done nothing to provoke any attack, but were of the party that fled before General Hancock's approach. This whole matter is horrible in the extreme, and these same Indians of my agency have actually been forced into war.

I have the honor to be, with much respect, your obedient servant,

E. W. WYNKOOP,
U. S. Indian Agent for Arapahoes, Cheyennes, and Apaches.

Hon. N. G. TAYOR,
Commissioner of Indian Affairs, Washington, D. C.

No. 15.

CALIFORNIA CROSSING, NEBRASKA,
April 22, 1867.

SIR: I have the honor to report the actions of the special Indian commission, from the 4th day of April, the date of our last communication, to the department up to this time.

Heretofore our communications have been addressed to the Secretary of the Interior, as we did not know officially that there was any commissioner appointed since Hon. L. V. Bogy left that office, till we received your telegram of the 16th instant. We were at Fort McPherson when last I wrote, detained there by snow-storms, and conflicting reports in regard to our meeting certain bands of Sioux in this vicinity.

On the 5th instant Brevet Brigadier General Parker and Mr. Beauvais, of the commission, left us for a point on the road to Denver, twenty-five miles east of

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Sedgwick. We found there was a very unsettled feeling in the Sioux camps south of the Platte, and it became apparent that there was such a want of confidence on the part of some of the Indians, that it would be impossible to induce them to meet the commission at any military post. From the place where the gentlemen of the commission went, (a ranch at the old California crossing,) messengers were sent out, who reached the Indian camps, and resulted in the principal chiefs and men of the Brulé, Ogallallas and Sioux, some ninety men, and in all one hundred and seventy men, women, and children, coming in. They represented about four hundred lodges. A portion of the Ogallallas, however, could not be reached, but those who represented that band stated that they were friendly and wished to remain so. As soon as we heard by telegraph that these Indians were coming in, the rest of the commission started, and reached the point of meeting the former ranch of Mr. Beauvais on the 19th, the Indians having arrived the day before. The next day we held a long council with them, and in the evening continued our talk, so as to allow the Indians to start back to their camps next day, as they were a little uneasy about the northern hostile Sioux, who had again commenced their depredations on the Laramie road, and had extended them to within sixty-five miles of Fort Sedgwick, the particulars of which I suppose you have heard through other sources.

These friendly Indians made quite serious complaints, because the government, as they stated, had not fulfilled its obligations assumed by the late Laramie treaty. They stated, that while they had left their old country, and remained at peace to comply strictly with their promises, and had incurred thereby the displeasure of their brothers, the great Grandfather, whose commissioners promised that he would give them seventy thousand dollars a year, to be paid semi-annually, the first instalment of which was to be paid last autumn, had not paid nor sent them anything. These complaints we found it difficult to answer.

Notwithstanding their treatment by the government they were disposed to remain friendly. To assure them that the government appreciated their friendly disposition and fidelity, and as an act of partial justice, we presented their principal chiefs with a horse each, and made presents to those of their band present and absent, the whole cost amounting to ($3,241 92) three thousand two hundred and forty-one dollars and ninety-two cents.

To the above amount are to be added expenditures for sending out messengers, and subsisting Indians pending council, making the amount, for which a voucher in triplicate has been given this day, of three thousand four hundred and ninety-six dollars and ninety-two cents, ($3,496 92,) to Messrs. Beauvais & Lee, a mercantile firm composed of E. C. Beauvais and William F. Lee.

These presents were distributed in our presence. They gave the Indians great satisfaction, and they returned to their camps highly pleased.

After lengthy talk, we made what we think a very satisfactory arrangement with these bands, and we hope it will meet the approval of the department.

I will state the substance of this, in as few words as possible.

We have given these Indians permission to remain at present anywhere in the section of country between the Platte and a line ten miles north of the Smoky Hill river, and between the longitude of Pole creek and Plum creek, a country not occupied by any whites, and will not be for many years to come.

This country at present is full of game, and where they can probably subsist themselves for six months in the year.

We have given papers of protection to the principal men of these two bands. We have allowed each of the bands a special interpreter, who will be with them, and in case of any difficulties, they will be the means of communication with the nearest military commanders or Indian agents. We have agreed to pay said interpreter five dollars per day. This is a very large amount, but it is only a temporary engagement. A more economical one can probably be made, should this arrangement be a permanent one.

Should war exist near the line of the Pacific railroad, from the hostile Sioux,

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or on the Smoky Hill route, from Cheyenne or other southern Indians—which may arise, as those latter Indians are very hostile to a railroad going through that route—the interpreters can communicate with the nearest military commanders, so that through their advice they may take those friendly Indians to some point where they will be out of the way of any hostilities, for in such a case they might be forced to take up arms against the whites, or suffer severe chastisement from their own people, and we recommend to provide for such an emergency in this section of country; that orders be issued to military commanders to give these peaceful Indians all the aid and protection in their power.

We would further recommend that parts of rations, such as flour, corn, beans, and some meat, be issued these Indians at military posts, or other posts, should they be in a suffering condition, as a temporary relief, under such regulations as might be deemed judicious.

We propose to bring such friendly Indians as are at present near Laramie to this temporary reservation; but we do not know we shall succeed, not having seen these Indians yet.

It is feared that war with some of the Indians is inevitable, and active military operations necessary; therefore it is of the greatest importance that we organize a peace party among the Indians, and do all we can to foster, protect, and increase this party. We have commenced with a respectable force of over seven hundred warriors, and hope to increase it greatly.

It will be a nucleus around which all Indians at present in hostile camps, friendly-disposed, can concentrate, and be protected until the peaceable Indians far outnumber the hostile.

This will cost money, but will in the end be far more economical than fighting them, for from their habits, and the nature and extent of country they occupy, should a general war come, they will be able to do immense damage to the scattered settlers, trains of immigrants, and merchandise, besides jeoparding the working and continuation of the Pacific railroad, not mentioning the great damage that would ensue to the immense mining region. It will save the country millions.

We leave this place in a day or two for Fort Laramie. As the road is not safe, we will be obliged to travel with an escort; hence our progress will be slow. We would thank you to answer this letter by telegraph, and inform us if you approve of what we have done.

This letter has been submitted to and approved by the other members of the commission.

Very respectfully, your obedient servant,

ALF. SULLY,
Brevet Brig. Gen., President of Commission.

Hon. N. G. TAYLOR,
Commissioner of Indian Affairs, Washington, D. C.

No. 16.

[Telegram.]

FORT SEDGWICK, —— 22, 1867.

Is it true that General Hancock is driving the Cheyennes north? The telegraph says so. Forty-six (46) lodges of northern Brulés are moving south; three of them reached our camp last night; they appear friendly; this will detain us here a few days.

A. SULLY,
Brevet Brigadier General.

Hon. N. G. TAYLOR,
Commissioner of Indian Affairs.

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No. 17.

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs, April 24, 1867.

SIR: I have the honor to enclose a copy of a telegraphic despatch just received from Brigadier General Sully, Fort Sedgwick, 23d instant, inquiring if it be true, as stated by telegraph, that General Hancock is driving the Cheyennes north, and informing me that forty-six lodges of northern Brulés are moving south.

In order that General Sully may be immediately advised in the matter, and such steps taken as may be proper to prevent these Indians, who are friendly and evidently seeking to get away from the hostile Indians north, from being involved in any difficulty by such movement, if it be as reported of General Hancock, I respectfully suggest the propriety and necessity of communicating with the War Department upon the subject without delay, with a request that answer be made this day, so as to enable this office to reply to the despatch of General Sully in due time.

Very respectfully,

N. G. TAYLOR, *Commissioner.*

Hon. O. H. BROWNING,
Secretary of the Interior.

No. 18.

FORT LARNED, KANSAS,
Upper Arkansas Indian Agency, April 24, 1867.

My last communication was written hastily from Fort Dodge, and I now have the honor to state that I have since arrived at the headquarters of my agency. Since the killing and scalping of the six Cheyenne Indians above Fort Dodge, nothing new has transpired with reference to Indian affairs. Contrary to my expectations, the Cheyenne Indians who fled from their village committed no depredations while crossing the Santa Fé road, and have not to my knowledge up to the present time, notwithstanding their persecutions. It is rumored here that considerable stock has been run off the Smoky Hill road by the Sioux Indians on the occasion of their flight north. General Hancock is still at Fort Dodge with his troops. Since the Indians of my agency have not as yet retaliated for the wrongs heaped upon them, it may be possible, if proper action be taken by the Department of the Interior to prevent the military from forcing trouble on, that a grand Indian war may be prevented; as far as laid in my power I have struggled to arrest this dire calamity.

The Arapahoes and Apache Indians are far south of the Arkansas river, and have not yet got into any trouble. I enclose herewith a copy of the inventory taken of property destroyed in both the Cheyenne and Sioux villages.

I am in receipt of a communication from your office stating that my bonds had been approved and enclosing my commission.

I would respectfully state I have not received any funds since entering upon my duties as Indian agent; that I am sadly in want of the same, and have made repeated applications. I am obliged to hire a private conveyance when travelling in the performance of my duty, and though notified some time ago that the Commissioner had ordered the purchase of an ambulance and team for my use, as yet I have seen nothing of it.

I have the honor to be, sir, with much respect, your obedient servant,

E. W. WYNKOOP,
U. S. Indian Agent for Arapahoes, Cheyennes, and Apaches.

Hon. N. G. TAYLOR,
Commissioner of Indian Affairs, Washington, D. C.

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No. 18 A.

Cheyenne camp.

Lodges	132	Coffee-pots	70
Buffalo robes	396	Hoes	50
Saddles	57	Fleshing irons	120
Travises	120	Par-flesh sacks	200
Head mats	78	Horn spoons	200
Axes	90	Crowbars	42
Kettles	58	Sacks feathers	400
Fry-pans	125	Tin plates	200
Tin cups	200	Brass kettles	160
Wooden bowls	130	Hammers	40
Tin pans	116	Sets lodge poles, (uncovered)	15
Whetstones	103	Stew-pans	17
Sacks paint	44	Drawing knives	4
Sacks medicine	57	Spades	10
Water kegs	63	Bridles	2
Ovens	14	Hatchets	93
Rubbing horns	117	Teakettles	25
Coffee-mills	42	Spoons	250
Ropes (lariats)	150	Knives	157
Chains	100	Pickaxes	4
Par-fleshes	264		

Sioux camp.

Lodges	140	Hoes	32
Buffalo robes	420	Fleshing irons	25
Saddles	226	Horn spoons	40
Travises	150	Crowbars	14
Head mats	142	Brass kettles	54
Axes	142	Hammers	77
Kettles	138	Sets lodge poles, (uncovered)	5
Fry-pans	140	Stew-pans	4
Tin cups	190	Drawing knives	9
Tin pans	146	Spades	2
Whetstones	140	Bridles	8
Sacks paint	70	Pitchforks	3
Water kegs	63	Teakettles	3
Ovens	6	Spoons	280
Rubbing horns	160	Pickaxes	4
Coffee-mills	7	Sword and extra scabbard	1
Ropes, (lariats)	280	Bayonet	1
Chains	140	Mail bag	1
Par-fleshes	146	Stone mallets	....
Currycombs	50	Lance	1
Coffee-pots	58		

No. 19.

FORT SEDGWICK, COL., *April* 24, 1867.

[Received at Washington April 24, 1867.]

Hon. N. G. TAYLOR, *Commissioner of Indian Affairs:*

Met twenty Sioux from the north at California crossing; they gave all particulars of Phil. Kearney massacre; one admitted he participated—perhaps all did. Learned that Oncpapas, Sans Arcs, Blackfeet, Upper and Lower

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Yanctonais, and other bands of Missouri Sioux, were not engaged. It is of greatest importance that the commission visit these bands at once, to prevent their going to war; also very important that commission visit Laramie immediately to gather friendly Indians on reservations, separating them from hostile. Troops' instructions give authority to go where proper, but not to separate. We suggest propriety of commission dividing; part visiting Laramie—the other the Missouri, immediately. Rumored hostilities with Cheyennes south; if true, will materially affect all Indian affairs west. Telegraph answer here.

ALF. SULLY, *Brigadier General, President.*

No. 20.

DEPARTMENT OF THE INTERIOR,
Office Indian Affairs, April 27, 1867.

SIR: I enclose for your consideration a copy of a telegraphic despatch from General Alfred Sully, one of the special commissioners to visit the Indian country in the neighborhood of Fort Phil. Kearney, dated at Fort Sedgwick, April 24, in which is stated the great importance of the Oncpapas and other bands of Missouri Sioux being visited by the commission, to prevent their going to war; and the suggestion is made that the commission be divided, part to visit the Missouri and part Laramie. That portion of the despatch relating to troops. it will be seen, is not clear; but I infer, taking it in connexion with the instructions of the department, which informed the commissioners that the various military commanders would be directed to afford them escorts and protection, that General Sully has reference to orders of military commanders furnishing the escorts, which will not allow the troops to be divided.

I recommend the approval of the suggestions of the commissioners, and that they be instructed accordingly; and further, that the War Department be requested to afford escorts and protection to both parties of the commission.

Very respectfully, your obedient servant,

N. G. TAYLOR, *Commissioner.*

Hon. O. H. BROWNING,
Secretary of the Interior.

No. 21.

WAR DEPARTMENT,
Washington City, April 25, 1867.

SIR: I have the honor to acknowledge the receipt of your letter of April 24, enclosing one from the Commissioner of Indian Affairs of the same date, with General Sully's telegram of the 22d, asking if it is true that General Hancock is driving the Cheyennes north? And to state, in reply, that this department, having no information on the subject, has telegraphed to General Sherman. On the receipt of his reply it shall be communicated to you.

Very respectfully, your obedient servant,

EDWIN M. STANTON,
Secretary of War.

Hon. SECRETARY OF THE INTERIOR.

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No. 22.

[Telegraphic despatch.]

DEPARTMENT OF THE INTERIOR,
Office Indian Affairs, May 3, 1867.

Brigadier General A. SULLY,
President of Commission, Fort Sedgwick, Nebraska:

Your despatch of 22d ultimo, about report of the Cheyennes being driven north by General Hancock, was referred to War Department by Secretary of the Interior. Secretary of War answers that he has no information upon the subject, but he has telegraphed General Sherman, and will communicate the reply when received.

N. G. TAYLOR, *Commissioner.*

No. 23.

FORT SEDGWICK, COLORADO TERRITORY,
April 28, 1867.

SIR: We met a reconnoitring party of twenty Sioux from Iron Shell's camp, on our way here. They came from the north. As their talk will give you much information about the position of the Sioux Indians north of here, we deem it important to give you here the substance of their conversation with us, which was as follows:

"We came from White river. Left the camp there. Snow very deep. Met a war party of Minneconjoux returning from the Platte, who told them the whites had killed nearly all the Brulés, which stopped the balance coming. About forty lodges of Brulés and Ogallallas compose our party. They told me when I left camp if I did not return this moon they would think all was right, and would then come down. Left them about two weeks ago. Left the war party that stole the mules at Fort Mitchell, on White river. They were only six persons, and belonged to the Minneconjoux. The northern Indians are all divided. A portion are encamped near the mouth of Tongue river, and part at the mouth of the Yellowstone.

"The Uncpapas went to the mouth of Yellowstone and had a fight with a fort, and after the fight had peace.

"We heard that these Indians were going east, down into the valley on the Missouri river, to make a circle and get out of the way. The Brulés are all broken up into small parties, working south. The Yanctonnais are near the mountain called 'Heap of Turtle.' The Bad Faces are at the mouth of Rosebud river. The Cheyennes further up Rosebud. The Brulés would have all come in, but they had soldiers among them who would not let them.

"The 'Man Afraid of his Horses' and Red Cloud are with the Bad Faces at the mouth of the Rosebud. Good many Indians would have come down this winter, but they heard in some way that soldiers were coming up to surround and fight them this winter, and they kept moving the other way to keep out of their way. The Brulés and all the little parties want peace, and have no doubt you can make peace with them when you go up.

"I was sent by my brother, Iron Shell, who is a chief, to come and find out how the whites felt. I have come, and have been well treated. If you should happen to see any Indians coming over the hills, you may know they are friendly."

Another statement:

"Came from Horse Head creek, near the Black Hills. When we first started found plenty of buffalo, but when we got near Big Butte found none. Came

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below the Black Hills. The village is coming in, but the snow is so deep they tread slowly. When we came to the edge of Black Hills we met a party of Minneconjoux who told us they had a fight with the soldiers, and nearly all the Brulé and Ogallalla Indians on the Platte were killed. Then Iron Shell did not know what to do. They wanted to come in, but were afraid. When we were ready to start, Iron Shell told us to come on and find what the whites were going to do, and report.

"The Indians who fought at Phil. Kearney were part of the Ogallalla and Brulé Sioux; 350 lodges Minneconjoux; 100 lodges Cheyennes; 100 lodges Arapahoes, and three Crows. There were no Missouri Indians present. Red Leaf with a large number are coming to Laramie, back of the Black Hills. They will come in small parties."

Very respectfully, your obedient servant,

ALFRED SULLY,
Brevet Brigadier General, President Commission.

Hon. N. G. TAYLOR,
Commissioner of Indian Affairs, Washington, D. C.

No. 24.

AGENCY FOR COMANCHE AND KIOWAS INDIANS
OF THE UPPER ARKANSAS,
Fort Zarah, Kansas, May 2, 1867.

SIR: I have the honor to report my arrival at this place late last evening, from Fort Larned, where I left Major General Hancock yesterday afternoon with the *remnant* of his grand army, having been out with him from this place since the 6th ultimo. I am sorry to say that, in my opinion, *little* good, but a *great deal* of harm has resulted from this expedition.

Very respectfully, your obedient servant,

J. H. LEAVENWORTH,
United States Indian Agent.

Hon. N. G. TAYLOR,
Commissioner Indian Affairs, Washington, D. C.

No. 25.

AGENCY COMANCHE AND KIOWA INDIANS, UPPER ARKANSAS,
Fort Zarah, Kansas, May 4, 1867.

SIR: You may be somewhat surprised at not hearing from me since the 15th ultimo in relation to matters on this frontier. Up to that time I believed trouble on the plains, between the Platte and the Arkansas and south of the latter, might and would be avoided; but from the course the military soon after took, I was compelled to change my mind; and now, as war is the word between the Platte and Arkansas, I shall in this only say that my whole exertion has been and still is to prevent its spread south of the Arkansas river.

General Sherman is to meet General Hancock at Fort Harker on the 7th instant. I shall leave here to-morrow morning to be present at that post at that time, and do all in my power to *protect* the Indians of my agency, who, at the present time, were never more friendly. I speak of them as tribes. That there are some bad men it is true, but they can and will be controlled by the tribes. Traders who have been with them for the last two months, and just returned, report them in almost a *starving* condition, but perfectly docile, they now look-

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ing forward to the arrival of their annuity goods with much anxiety. The orders from the military embarrass me very much as regards my intercourse with the Indians of my agency, but I hope when I see General Sherman to have matters properly arranged. General Hancock, owing to the *mistakes* or mismanagement of the military at Fort Larned, has seen but two or three of the leading men of the Kiowas, and those that committed the raid into Texas last fall and *sold* the Box family to the officers at Fort Dodge, and have remained in the immediate vicinity of that post since, refusing to come in and give the assurances to the government that hereafter they would comply with their treaties, as required by the Hon. Secretary Browning's letter to Commissioner Cooley, of the 22d October, 1866. After my intercourse with General Sherman, I will report the result.

I am, sir, very respectfully,

J. H. LEAVENWORTH,
United States Indian Agent.

Hon. N. G. TAYLOR,
Commissioner Indian Affairs, Washington, D. C.

No. 26.

OFFICE SUPERINTENDENT INDIAN AFFAIRS,
Atchison, Kansas, May 13, 1867.

SIR: I have the honor to inform you that Agent Leavenworth arrived here yesterday, direct from his agency. I had a conference with him yesterday relative to Indian affairs and military operations in the southwest. He gave me much valuable information; permitted me to peruse all the correspondence he has had with General Hancock and other military dignitaries. If his statements are correct (and I have no reason to doubt them) General Hancock's expedition, I regret to say, has resulted in no good, but, on the contrary, has been productive of much evil. It would have been far better for the interest of all concerned had he never entered the Indian country with his soldiers. Indians who, at the time he got into their country, were peaceable and well-disposed towards the whites, are now fleeing with their women and children, no one knows where to, and what the final result will be is doubtful.

In such times, and while such a state of uncertainty exists, I deemed it proper that the agents of these Indians should be at some place where they could advise and counsel with them. I so informed Agent Leavenworth, and directed that he return and put himself in communication with his Indians. This he said he would do, but in order to accomplish this he will have to proceed to the mouth of the Little Arkansas, and from that point send out runners to his Indians. Before returning he will report in detail to the department all the particulars relating to recent events connected with himself and his Indians.

Very respectfully, your obedient servant,

THOMAS MURPHY,
Superintendent Indian Affairs.

Hon. N. G. TAYLOR,
Commissioner, Washington, D. C.

No. 27.

DEPARTMENT OF THE INTERIOR,
Office Indian Affairs, May 18, 1867.

SIR: Your letter of the 13th instant is received, stating that you had had an interview with Agent Leavenworth, and after obtaining full information from him had directed him to seek his Indians, scattered since the expedition of General Hancock, and remain with them. Your action in this respect is approved. Your

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statement that he will, before returning, "report in detail all the facts relating to recent events connected with himself and his Indians," is noticed.

This office was about to direct you to call upon Agent Leavenworth for such a report. You will state to him that while this office has received the various brief reports forwarded by him from time to time, his detailed and connected reports are necessary, and you will also direct Agent Wynkoop to the same effect. His letters of the 9th, 15th, 18th, 21st, and 24th ultimo have been received, but his detailed and connected reports should also be prepared and forwarded through your office.

Very respectfully, your obedient servant,

N. G. TAYLOR, *Commissioner.*

THOMAS MURPHY, Esq.,
Sup't Indian Affairs, Atchison, Kansas.

No. 28.

AGENCY KIOWA AND COMANCHE INDIANS OF UPPER ARKANSAS,
May 15, 1867.

SIR: I have the honor to enclose herewith copies of a correspondence I have had with Major General W. S. Hancock, commanding the department of the Missouri. I forward these papers to the department for its information and consideration, and have to request that I may be informed if my action in the matter is approved or disapproved. General Hancock had written his letter on the 10th of March, five days before his command was published in the newspapers of the country to march, and sent it to the commanding officer of the post at Fort Larned, thirty-five miles beyond where he knew my agency had been, to a point where he must have known I was not, for I had been in correspondence with him from Washington, D. C., sending him from that city different treaties he had requested me to furnish him.

On his arrival at Fort Zarah, on the 5th of April, he requested me to accompany him on his expedition, "to show that the officers of the government were acting in harmony," not knowing of his letter of March 11, 1867. I very readily accepted his invitation, and joined his command on the morning of the 6th of April, 1867. After I reached Fort Larned I received from the commanding officer of that post General Hancock's letter. I saw at once a wrong conclusion might be inferred from the tenor of his letter, and by my joining his command it was tacitly acknowledging my "inability to arrange those matters satisfactorily." I therefore addressed him my letter of the 19th of April, 1867, and received the enclosed papers, marked from A to H. To these papers I would most respectfully call the attention of the honorable Commissioner of Indian Affairs.

The treaties with the Kiowas and Comanches require when a party is injured to make a written statement, verified by affidavit. Now what do these "grave reasons of complaints" show? There is but one affidavit in them all, and that shows conclusively that the robbery of the United States officer is false, unless he was associated with Mr. Tappan and Mr. Jones in their illicit trade, for they went individually to the Indian village with two loaded wagons to trade without a license, at least from the agent of the Kiowas; and as they were there without authority, I think they have no right or claim to make charges against these Indians, especially if it can be shown—and I think it can be—that there was whiskey in the outfit, and that the Indians got drunk and the consequences followed.

Very respectfully, your obedient servant,

J. H. LEAVENWORTH,
United States Indian Agent.

Hon. N. G. TAYLOR,
Commissioner Indian Affairs, Washington, D. C.

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No. 28 A.

AGENCY KIOWA AND COMANCHE INDIANS OF UPPER ARKANSAS,
Camp on Pawnee Fork, April 19, 1867.

SIR: I have the honor to acknowledge the receipt of yours of the 11th ultimo, at Fort Larned, on the evening of the 6th instant.

You say in your letter, "We desire to avoid, if possible, any trouble with the Indians, and to treat them with justice, and according to the requirements of our treaties with them, and I wish especially in my dealings with them to act through the agents of the Indian department as far as it is possible to do so. Concerning the Kiowas of your agency we have grave reasons for complaint. Among others, it is officially reported to these headquarters that that tribe has been making hostile incursions into Texas, and that a war party has very recently returned to Fort Dodge from that State, bringing with them the scalps of seventeen colored soldiers and one white man. I am also informed that the Kiowas have been threatening our posts on the Arkansas; that they are about entering into a compact with the Sioux for hostilities against us; and that they have robbed and insulted officers of the United States army who have visited them, supposing that they were friends.

"It is well ascertained that certain members of that tribe (some of whom are known) are guilty of the murder of Mr. James Box, a citizen of Montague county, Texas, last summer, and of the capture and barbarous treatment of the women of his family. * * * * * *

"If you, as their agent, can arrange these matters satisfactorily with them, we will be pleased to defer the whole subject to you. In case of your inability to do so, I would be pleased to have you accompany me when I visit the country of your tribes, to show that the officers of the government are acting in harmony."

General, I am extremely happy to inform you that the views expressed in your letter meet with my entire approbation, and that I shall with great pleasure co-operate with you to the extent of my power, and in order to enable me to decide my ability to "arrange these matters satisfactorily," I have to request that you will furnish me with the official evidence, according to our treaty with them, that the Indians of my agency, or any members of either tribe, Comanches or Kiowas, have been guilty of—

1st. Of bringing from the State of Texas the scalps of seventeen colored soldiers.

2d. Of threatening our posts on the Arkansas.

3d. That they (Kiowas) are about entering into a compact with the Sioux for hostilities against us.

4th. That they (Kiowas) have robbed and insulted officers of the United States army.

5th. The murder of Mr. James Box, a citizen of Texas; the capture and barbarous treatment of the women of his family.

It may appear strange to you that I should make the murder of Mr. Box and the capture of his family the subject of an official inquiry, but when I inform you that I have no official information except what is contained in your letter of the 11th ultimo, you will not, I think, be surprised; and it is also well known to the general commanding that the military assumed to act in this matter without consulting the Indian department or any of its agents, in a single particular, and that you have, if I am not mistaken, informed me, "that under the circumstances no further demands would be made upon the Indians concerning this Box matter."

I am, general, very respectfully, your obedient servant,

C. H. LEAVENWORTH,
United States Indian Agent.

Major General W. S. HANCOCK,
Commanding Department of the Missouri.

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No. 28 B.

HEADQUARTERS DEPARTMENT OF MISSOURI, IN THE FIELD,
CAMP NO. 17, NEAR FORT DODGE, KANSAS,
April 23, 1867.

COLONEL: I have the honor to acknowledge the receipt of your letter of the 19th instant, in reply to my letter to you of the 11th ultimo, referring to matters connected with the Indians of your agency.

For your information I transmit herewith official evidence concerning the following charges made against the Kiowas and Comanches, as requested by you:

1. "Of bringing from the State of Texas the scalps of seventeen (17) colored soldiers." (See enclosed extract from a letter of Major H. Douglas, third United States infantry, commanding post of Fort Dodge, dated February 7, 1867.)

2. "Of threatening our posts on the Arkansas." (See copy of affidavit of Mr. F. F. Jones, interpreter at Fort Dodge, dated February 9, 1867.)

3. "That they (the Kiowas) are about entering into a compact with the Sioux for hostilities against us." (See extract from letter of Brevet Major Asbury, Captain third United States infantry, commanding post of Fort Larned, dated February 27, 1867.

4. "That they (the Kiowas) had robbed and insulted officers of the United States army, giving time, place, and circumstances of the robbery and insults." (See copy of affidavit of Mr. F. F. Jones, interpreter at Fort Dodge, Kansas, dated February 9, 1867.)

5. "The murder of Mr. James Box, a citizen of Texas, the capture and barbarous treatment of the women of his family." (See enclosed copy of statement of Mrs. Mathew Box to Captain A. J. Sheridan, third infantry, dated October 20, 1866, which was generally published in the newspapers, and a written statement of which was furnished from headquarters department of the Missouri to the Hon. Secretary of the Interior, shortly after the affidavit was made; also copy of letter of same date (October 20, 1866) from Captain Sheridan on this subject.)

Lieutenant General Sherman passed along about the time of these transactions and concluded this matter, but disapproved of what had been done in ransoming the women from the Indians. Although the Indian department was notified of this matter, I have not heard of any action whatever being taken by it. Any statement I may have made to you on this subject to the effect "that, under the circumstances, no further demand would be made upon the Indians concerning the Box matter" was, I presume, verbal, the idea intended to be conveyed being, that old matters of this nature would be left to the Indian department, which claims that it should investigate such cases. I said the same in substance, I believe, to Colonel Wynkoop in reference to the Chalk Bluff and Zara outrages.

I have recently sent you a copy of a letter transmitted to me by General E. O. C. Deal, dated headquarters department of the Arkansas, March 5, 1867, in reference to the Comanches carrying off stock and a negro child from within a few miles of Fort Arbukle.

There is other evidence concerning these matters on file at headquarters department of the Missouri.

I am, colonel, very respectfully,

WINFIELD S. HANCOCK,
Major General U. S. Army, Commanding

COL. J. H. LEAVENWORTH,
United States Indian Agent.

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No. 28 C.

HEADQUARTERS DEPARTMENT OF MISSOURI,
FORT LEAVENWORTH, KANSAS,
March 11, 1867.

COLONEL: I have the honor to state for your information that I am at present preparing an expedition to the plains, which will soon be ready to move. My object in doing so at this time is to convince the Indians within this department that we are able to punish any of them who may molest travellers across the plains, or who may commit other hostilities against the whites. We desire to avoid, if possible, any trouble with the Indians, and to treat them with justice and according to the requirements of our treaties with them; and I wish especially, in my dealings with them, to act through the agents of the Indian department, so far as it is possible so to do. Concerning the Kiowas of your agency, we have grave reasons for complaint—among others, it is officially reported to these headquarters that that tribe has been making hostile incursions into Texas, and that a war party has very recently returned to Fort Dodge from that State, bringing with them the scalps of seventeen (17) colored soldiers, and one (1) white man. I am also informed that the Kiowas have been threatening our posts on the Arkansas, that they are about entering into a compact with the Sioux for hostilities against us, and that they have robbed and insulted officers of the United States army who have visited them supposing them to be friends.

It is well ascertained that certain members of that tribe (some of whom are known) are guilty of the murder of Mr. James Box, a citizen of Montague county, Texas, last summer, and of the capture and barbarous treatment of the women of his family.

I desire you particularly to explain to them that one reason the government does not at once send troops against them to redress these outrages against our people is, that their Great Father is averse to commencing a war upon them (which would certainly end in destroying them) until all other means of redress fail. I request that you will inform the Indians of your agency that I will hereafter insist upon their keeping off the main routes of travel across the plains, where their presence is calculated to bring on difficulties between themselves and the whites. If you as their agent can arrange these matters satisfactorily with them, we will be pleased to defer the whole subject to you. In case of your inability to do so, I would be pleased to have you accompany me when I visit the country of your tribe, to show that the officers of the government are acting in harmony.

I will be pleased to talk with any of the chiefs whom we may meet.

I am, sir, very respectfully,

WINF'D S. HANCOCK,
Major General Commanding.

Col. J. H. LEAVENWORTH,
U. S. Indian Agent for Comanches and Kiowas.

No. 28 D.

HEADQUARTERS, FORT DODGE, KANSAS,
October 20, 1866.

SIR: I have the honor to report that in accordance with the instructions given to the chiefs of the Kiowa tribe of Indians while in council at this post, that yesterday they brought in and delivered to me one woman (white) and child,

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the mother and sister of the two girls recovered from the Indians by us some time ago, whom the Indians captured in Texas. I enclose the statement of Mrs. Mary Box, the mother of these three children.

I am, sir, very respectfully, your obedient servant,

ANDREW SHERIDAN,
Capt. Third U. S. Infantry and Bvt. Maj. U. S. A., Com'dg Post.

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
In the Field, Camp No. 18, *near Fort Dodge, Kansas, April* 22, 1867.

Official:

W. S. MITCHELL,
Captain and Acting Assistant Adjutant General.

No. 28 E.

Statement of Mrs. Martha Box, made to Captain Andrew J. Sheridan, third United States infantry, and brevet major United States army, commanding post, Fort Dodge, Kansas.

FORT DODGE, KANSAS, *October* 20, 1866.

MAJOR: My name is Mrs. Martha Box; am about forty-two years of age; was born in Gibson county, Tennessee; went to Texas when I was about eight years old; was married to James Box, in Titus county, Texas, when I was seventeen years old. After we were married we lived in Titus county three months, and then moved to Westport, Hopkins county, where we lived for a long time; all my children but one were born in Westport. About the breaking out of the late rebellion we moved to Montague county, Texas, on the extreme frontier. The cause of our moving was owing to my husband being a Union man and did not wish to fight in the rebellion. It was some time in May, 1861, that we moved. There were five of us, all relations. While we were living in Montague county my husband learned that one of his brothers was lying at the point of death, and that another of his brothers had had a leg amputated, in Hopkins county, and that they wished to see him at once. So we started and went to Hopkins county and staid with my husband's brothers until they were nearly well—I should say, about five weeks.

We started for home about the 10th day of August last. My husband had put a quantity of leather in our wagon to take home, there being no leather in Montague county. On our journey home it rained a great deal.

About five days after we started, and when we were within three miles of our home, my husband saw somebody on the hill whom he supposed to be one of his neighbors. He said to me, "I wish that man would come down to us, so that I could borrow his horse for our jaded one, and then we could get home faster." I looked in the direction he pointed and said, "Why, there are three or four of them." He then said "They are Indians! We are gone! Margaret, get my six-shooter—quick!" Margaret went to get it, and before she could give it to him the Indians came upon us and shot him in the breast. He fell over in the wagon, pulled the arrow from his breast, rose and fired at them. He was shot through the hand by an arrow. He pulled the arrow from his hand, jumped out of the wagon, and ran around to the left side of the wagon, where he fell to the ground. The Indians then scalped him twice and cut his left jaw.

They then pulled me out of the wagon by the hair of the head, robbed and took everything from the wagon. Took Josephine, Maizie, and Ida and tied them on ponies.

They put Margaret on one, but she jumped off and ran around to her father and held him until they pulled her from him. They put Margaret back on the

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pony and started off at a-gallop. We travelled fourteen days, night and day, before we stopped. About eleven days after we were taken, my baby, Laura, died. They took her from me and threw her in a ravine. We travelled on until we got to the camp where all the Indians were. I staid in camp about four days with my children, when they moved me off about six miles further to another camp, where I staid until they brought me in here. I had to pack wood and water. When I delayed they would beat and whip me, and even the squaws would knock me down. I was very sick while I was with the Indians; notwithstanding, they would beat me.

It was a terrible life. They gave us nothing to eat but broiled meat; nothing whatever but that.

My husband's three brothers are still living in Texas. Wade Box lives in Johnson county, Texas; Young Box lives in Westport, Hopkins county, Texas, and John Box lives in Westport, Hopkins county, Texas. My mother, brother, and niece are living in our home in Montague county, twenty-five miles from Gainsville.

MARY MATHEW BOX.

HEADQUARTERS, FORT DODGE, KANSAS,
October 20, 1866.

I certify that the foregoing is the statement made to me of the treatment the Box family received from the Kiowa Indians in Montague county, and while in Indian camp, by Mrs. Mary Box.

ANDREW SHERIDAN,
Capt. Third U. S. Infantry and Bvt. Maj. U. S. A., Com'dg Post.

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
In the Field, Camp No. 18, *near Fort Dodge, Kansas, April* 22, 1867.

Official:

W. S. MITCHELL,
Captain and Acting Assistant Adjutant General.

No. 28 F.

Extract of Major Douglas's letter of February 7, 1867, *to Major H. Asbury, third United States infantry, commanding Fort Larned, Kansas.*

* * * * * * * * *

P. S.—Jones reports that during his stay at the Kiowa camp, a war party arrived with the scalps of seventeen negroes and one white man, and reported that they had been to Texas; that the negroes were soldiers; that they also captured two hundred head of horses; and that there were several war parties out yet who had not returned. * * * * *

H. D.

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
In the Field, Camp No. 18, *near Fort Dodge, Kansas, April* 22, 1867.

Official:

W. S. MITCHELL,
Captain and Acting Assistant Adjutant General.

No. 28 G.

HEADQUARTERS, FORT DODGE,
Kansas, February 9, 1867.

Personally appeared before me, this 9th day of February, 1867, F. F. Jones, interpreter at this post, who being duly sworn, states that—On the 27th day of

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January, 1867. I left Fort Dodge, Kansas, in company with Major Page, Mr. Tappan, post sutler, and two teamsters, for the purpose of visiting the Kiowa Indian camp.

We reached Mulberry creek, fifteen miles south of this post, and there encamped for the night. We there met White Bear and his wife. They informed me they were on their way to Fort Dodge for provisions, but as we had plenty to supply them they concluded to turn back with us to their own camp On the 28th we again started, and encamped about five miles west of the Indian camp. On the morning of the 29th we started and reached the Indian camp about 11 o'clock a. m.

Immediately upon our arrival they surrounded our wagons and demanded our provisions, and soon afterwards helped themselves, taking from us one barrel of flour, besides a quantity of sugar, rice, apples, and then demanded our saddles, bridles, girths, &c. We refused. They then took what they wanted, and remarked to us "that the less we said the better it would be for us." They threatened to shoot Major Page, because they said he was a soldier chief. I explained that Major Page came over to pay them a friendly visit, and that they should not harm him. They also tried to shoot Mr. Tappan, but, happening to meet them, I talked them out of it. On the same night they shot at me also and grazed my hand. On the same evening there was a party of Indians arrived from the Kiowa and Comanche camp, further south, and they told us they wanted us to go over to their camp. We refused. They told us it did not make any difference whether we came or not, as they would take the teams themselves, so I agreed to go in order to save the teams.

On the morning of the 30th Major Page and Mr. Tappan told me they intended starting for Fort Dodge, and shortly thereafter I proceeded towards the second camp, which, after camping for the night, we reached next morning about 11 o'clock; then they ordered us to unload the wagons. Immediately after the wagons were unloaded they all came around and helped themselves. That which they did not take we traded for a few old robes.

They also took from us here one of our best mules. On the morning of the 31st we started for the camp we had left the previous day, which we reached on the same evening. Satanta—White Bear—told me to inform the commanding officer at Fort Dodge that he wanted all the military posts and troops removed from this country immediately; he also wanted the Santa Fé road stopped at Council Grove; he wanted the mail coach stopped running; he wanted the railroad stopped at Junction City; and if the roads were not stopped and the posts and troops moved he would take his force and, in company with other Indians, help to move them.

He said his stock was getting poor and tired, and he wanted the government stock fed up a little better than it was, for he would be over in a few days for it.

On the morning of the 1st of February I started for Fort Dodge, which post I reached on the 7th day of February, expecting to find Major Page and Mr. Tappan there.

F. F. JONES.

Sworn and subscribed before me, this 9th day of February, 1867.

G. A. HESSELBERGER,
Second Lieutenant Third Infantry, Post Adjutant.

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
In the Field, Camp No. 18, near Fort Dodge, Kansas, April 22, 1867.

Official copy:

W. S. MITCHELL,
Captain and Acting Assistant Adjutant General.

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No. 28 H.

Extract of Brevet Major Asbury's letter of February 27, 1867, to the assistant adjutant general district of Upper Arkansas.

* * * * * *

A band of Sioux crossed the Arkansas river going south a few days ago, between this post and Fort Dodge, for the purpose, it is understood, of having a "talk" with the tribes belonging to that region, probably to determine the time for an outbreak.

* * * * * *

I am, sir, very respectfully, your obedient servant,

HENRY ASBURY,
Brevet Major U. S. Army, Commanding.

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
In the Field, Camp No. 18, near Fort Dodge, Kansas, April 22, 1867.

Official:

W. S. MITCHELL,
Captain and Acting Assistant Adjutant General.

No. 29.

AGENCY COMANCHE AND KIOWA INDIANS OF UPPER ARKANSAS,
Leavenworth, May 16, 1867.

SIR: I have the honor to enclose herewith a copy of a letter from Captain E. L. Smith, nineteenth United States infantry and brevet major United States army, to Colonel O. D. Green, assistant adjutant general department of Arkansas, Little Rock, Arkansas, and would most respectfully ask the honorable Commissioner of Indian Affairs, to examine this letter, particularly the *indorsement* of Brigadier General Ord. He acknowledges the fact that military posts "demoralize them (the Indians) more than anything else, except money and whiskey." This is true to the letter, in my opinion; and that opinion has not been formed hastily or from theory, but from a life-long experience, not only on the frontier, but with the Indians in their camps, and years of service in the army. Whiskey, sir, will, in some form or other, prostitute the fairest virtue of the Indian maiden, and next to this is the association formed at military posts, not alone with the enlisted men—but I say it with pain—with very many of the commissioned officers.

I am, sir, very respectfully, your obedient servant,

J. H. LEAVENWORTH,
United States Indian Agent.

Hon N. G. TAYLOR,
Commissioner of Indian Affairs, Washington, D. C.

No. 29 A.

HEADQUARTERS DEPARTMENT NINETEENTH U. S. INFANTRY,
Fort Arbuckle, C. T., February 16, 1867.

COLONEL: I have the honor to state that previous to my arrival here a roving band of Indians had made a raid in the vicinity, carrying off stock, chiefly horses, and a negro child, from within a few miles of the post. Brevet Lieutenant Colonel Hart, commanding, sent in pursuit the Caddo Indian scouts,

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who, after more than a week's absence, returned without any intelligence as to the number, tribe, or probable course of the robbers. I had just learned from Horace C. Jones, (white man,) who is an old resident, and has for some years acted as interpreter for many of the tribes of Indians on this frontier, that the band consisted of twenty-five (25) Comanches, belonging to the Cashchivatethka tribe, (Buffalo Eaters,) the head chief being Marwha. About two weeks after these depredations here they were met in the neighborhood of Fort Cobb, and gave chase to Samuel Paul and Dr. J. J. Stearn, (white,) the latter being the issuing commissary of the Reserve Comanches, who are reported friendly. These men were saved by the aid of Toschowa, head chief of the Reserve Comanches.

This chief also recovered five (5) of the horses which had been taken from the vicinity, but failed in his efforts to regain the captured negro child. These facts were obtained by Mr. Jones from Toschowa himself, who requested they might be made known to these headquarters. In this affair Toschowa was brought in collision with the Indians of his own tribe, with whom he had formerly acted, and he felt the necessity of avoiding an open rupture. His conduct displays admirable discretion under the circumstances.

I have the honor to state further that several other tribes than the Comanches have been noticed on the war-path, having been seen in their progress in unusual numbers, and without their squaws and children, a fact to which much significance is attached by those conversant with Indian usages. It is thought by many white residents of the Territory that some of these tribes may be acting in concert, and that plundering incursions at least are in contemplation. George Washington, second chief of the Caddoes, a friendly tribe, is of the opinion that the wild Comanches are bent upon mischief.

Since the date of the treaty made at the mouth of the Little Arkansas, I believe on the 6th of October, 1865, in which the Cashetopetka Comanches joined, these and other contracting parties to the treaty have carried off a large amount of stock, in violation of its provisions, and have slain and made captive many white persons, held in speculation to be ransomed. The practice of the government of condoning (pardoning, perhaps) these offences by the payment of liberal sums, has had the natural effect of encouraging this inhuman traffic among the Indians, and every day of its continuance adds difficulties to the return to what I deem a wiser and sterner policy, and one that would ultimately be the most humane.

My inexperience in the exigencies of the frontier causes me to defer to the views of such sensible white residents and others as, from long residence among the Indians, are competent to advise, and this communication, while it expresses my own, is more particularly the embodiment of their views.

In a communication made on the 12th instant I had the honor to apply for ten (10) additional companies to re-enforce this post, and I now respectfully suggest the subject-matter of this communication as additional reason for the proposed re-enforcement.

I have the honor to remain, very respectfully, your obedient servant,

E. L. SMITH,

Capt. Nineteenth U. S. Infantry, Bvt. Maj. U. S. A., Comd'g Post.

Colonel O. D. GREEN,

A. A. G. Department of Arkansas, Little Rock, Ark.

Official copy, respectfully furnished for the information of Colonel J. H. Leavenworth, Indian agent:

W. S. MITCHELL,

Captain and Assistant Adjutant General.

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[Indorsements.]

HEADQUARTERS DEPARTMENT OF THE ARKANSAS,
March 5, 1867.

From the fact that these Indians steal from these frontiers, and have supplied themselves with caballadas, that they sell and supply horses to the northern Indians on the railroad and mail route, I think it important to put a stop to their wholesale plundering. I propose building posts in their country, as that demoralizes them more than anything else, except money and whiskey.

Respectfully forwarded:

E. O. C. ORD,
Brigadier General Commanding.

HEADQUARTERS MILITARY DEPARTMENT OF MISSOURI,
St. Louis, Missouri, March 14, 1867.

Respectfully referred to the commanding general, department of the Missouri, for his action in the premises.

By order of Lieutenant General Sherman:

W. A. NICHOLS,
Assistant Adjutant General.

No. 30.

AGENCY COMANCHE AND KIOWA INDIANS OF UPPER ARKANSAS,
Leavenworth City, May 16, 1867.

SIR: I have the honor to enclose herewith my letter of the 10th ultimo, addressed to Major General Hancock, commanding the department of the Missouri, together with his reply of the 11th April, 1867.

This order bears equally upon all Indians within this large district, no matter what may be the situation or disposition of the same.

Within the limits of this district large numbers of what are called "wild Indians" live, and depend mostly for subsistence for themselves and families upon game.

Heretofore the buffalo was their whole dependence, and when other game was killed it was more for sport than necessity. Now it is otherwise; the buffalo has greatly decreased in number, and is fast disappearing, and the "red man" finds himself compelled to look to other sources for food. The small game becomes important to him, and, he says, without ammunition he must starve, or seek other sources to sustain himself and those whom nature requires him to support.

Two traders, lately from some two hundred miles north of the Big Bend of the Arkansas, report to me the Indians of that country in almost a starving condition, living upon the old carcasses of buffalo killed last fall and during the winter, and upon roots. On their trip up they did not see fifty head of buffalo. If the Indians cannot get ammunition in small quantities sufficient to kill small game for subsistence, what are they to do? It is impossible for me to tell you the hardship this order works. Cannot something be done about it?

As I have heretofore sent General Hancock's Field Order No. 1, I enclose herewith his Field Order No. 2, and will again assure the department that there is no cause of complaint from the Indians of my agency, except those who raided into Texas last fall, and sold their captives to the military at Fort Dodge, as has been reported to the department, (see Agent Taylor's report, September 25, 1866,) and who have remained at or near that post since, depending on that point for trade and support.

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The great body of Kiowas, and all the Comanches, have remained away from our great lines of travel, and at their camps near the Salt plains.

Very respectfully, your obedient servant,

J. H. LEAVENWORTH,
United States Indian Agent.

Hon. N. G. TAYLOR,
Commissioner Indian Affairs, Washington, D. C.

No. 30 A.

AGENCY COMANCHE AND KIOWA INDIANS OF UPPER ARKANSAS,
Fort Larned, Kansas, April 10, 1867.

SIR: I have received the following order through the commanding officer at Fort Dodge, Kansas:

[General Orders No. 2.]

HEADQUARTERS DISTRICT UPPER ARKANSAS,
Fort Riley, Kansas, January 26, 1867.

It having been officially reported to the major general commanding the department that arms and ammunition have been sold or given away to Indians on permits from the Indian agents, post commanders are hereby ordered to prevent any further sales or gifts of arms or ammunition to Indians in this district until further orders.

By command of Brevet Major General A. J. Smith:

HENRY E. NOYES,
Capt. Second Cav., Brevet Maj. U. S. A., and A. A. A. G.

Major General W. S. HANCOCK,
Commanding Department of the Missouri.

No. 30 B.

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
In the Field, Camp No. 11, *near Fort Larned, April* 11, 1867.

COLONEL: In reply to your communication of the 10th instant, I have the honor to state, that the order from headquarters district of the Upper Arkansas, referred to by you, has the sanction of myself, of Lieutenant General Sherman, and of General Grant, as has been published and widely circulated. It was based upon a recent official report, received from Major H. Douglas, third United States infantry, commanding at Fort Dodge, in which it was stated that large bands of Indians had passed that post, all of whom were supplied with arms in such abundance that some of them had three (3) revolvers; and further stated that they were abundantly supplied with ammunition.

No change can be made in the order in question, unless by reference to Lieutenant General Sherman, or higher authority; or unless it should be found that the report of Major Douglas concerning this matter is inaccurate.

A copy of General Field Orders No. 1, C. S., from these headquarters, is herewith furnished, as requested by you.

I am, colonel, very respectfully, your obedient servant,

WINFIELD S. HANCOCK,
Major General U. S. A. Commanding.

Colonel J. H. LEAVENWORTH,
U. S. Indian Agent, Fort Larned, Kansas.

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No. 30 C.

[General Field Orders No. 2.]

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
In the Field, Camp No. 11, near Fort Larned, Kansas, April 9, 1867.

I. Chiefs of the Arapahoes, Kiowas, Cheyennes, and possibly of other tribes, have assembled frequently at or near certain posts on the Arkansas and Smoky Hill, and have, in manner and word, by message and verbally, to the commanders and other officers, threatened to interrupt the use by our people of the public road, and have notified them to leave. Unless these things are checked, they will result in war; the Indians will believe we are afraid of them. On a recurrence of similar cases, the commanding officers of posts and detachments are directed to punish on the spot such offenders, and to proceed against the tribes in question without delay.

In case of depredations by Indians, driving off stock, &c., a pursuit will be made at once, in order to arrest and punish the perpetrators, and to determine with certainty the tribe to which they belong. If necessary, a guide, or "tracker," may be employed, to assist in the pursuit. Indians may be engaged for this purpose, but they should be of a different tribe from that which has committed the depredations.

Hereafter, in case of hostilities by Indians, no peace will be made with them, unless by reference to these headquarters.

By command of Major General Hancock:

W. G. MITCHELL,
Captain and A. A. A. General.

Official copy, respectfully furnished for the information of Colonel Leavenworth, United States Indian agent.

W. G. MITCHELL,
Captain and A. A. A. General.

No. 30 D.

[General Orders No. 4.]

HEADQUARTERS, FORT DODGE, KANSAS,
February 2, 1867.

I. The following General Order from headquarters, district of the Upper Arkansas, received this day, is published for the information of all concerned:

[General Orders No. 2.]

HEADQUARTERS DISTRICT UPPER ARKANSAS,
Fort Riley, Kansas, January 26, 1867.

It having been officially reported to the major general commanding the department that arms and ammunition have been sold or given away to Indians, or furnished from the Indian agents, post commanders are hereby ordered to prevent any further sales or gifts of arms or ammunition to Indians in this district until further orders.

By command of Brevet Major General A. J. Smith:

HENRY E. NOYES,
Capt. 2d Cav., Brevet Major U. S. A., A. A. A. G.

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II. All traders who are trading, or who design to trade, with Arapahoes, Kiowas, Cheyennes, Comanches, or Apaches, or any other Indians in the vicinity of this post, are hereby warned to desist from the sale or gift of arms and ammunition, under penalty of subjecting their persons and goods to seizure.

III. The officers and soldiers of this command are hereby enjoined to do all in their power to prevent the sale of arms and ammunition to Indians. It will be their duty to impart promptly to the commanding officer any information they may obtain of arms or ammunition sold, or designed to be sold, or in any way supplied to Indians.

IV. No trader's outfit will be allowed to leave or pass this post without a thorough inspection. The duty of inspecting will devolve upon the officer of the day, and the guard will be instructed to stop all wagons, with exception of government trains, and report their arrival to the officer of the day.

By order of Major Henry Douglas:

G. A. HESSELBERGER,
Second Lieut. 3d U. S. Inf., Post Adjutant.

Copy respectfully furnished for the information of Colonel J. H. Leavenworth, United States Indian agent, Fort Zarah, Kansas.

No. 30 E.

I have to respectfully request that you will inform me if the above order is still in force; and if so, to inform me under what law, or by what authority, the said order was issued, and also if the same has been modified in any manner whatever. I have also to request that I may be furnished with a copy of Field Orders No. 1, and dated March 26, 1867.

I am, sir, very respectfully, your obedient servant,

J. H. LEAVENWORTH,
United States Indian Agent.

ACTING ASSISTANT ADJUTANT GENERAL.

No. 31.

ST. LOUIS, MO, *May* 22, 1867.

SIR: On the 4th instant I wrote you from Fort Zarah, Kansas, that Lieutenant General Sherman was expected at Fort Harker on the 7th, at which place I proposed to see him. His non-arrival necessitated my going to Fort Leavenworth, at which place I met him on the 11th, but, after a very short interview, I became satisfied "all Indian matters" were now left exclusively with General Hancock, and, as I supposed I knew his views, I made up my mind things pertaining to the Indians would have to take their course. I went immediately to Atchison, and consulted Superintendent Murphy as to the policy best to be pursued towards the Indians south of the Arkansas river. As no regard is paid by the military to our treaties with the Indians, and as the Indians of my agency were far south, and I could not communicate with them directly from Forts Larned or Zarah, I informed Superintendent Murphy I should adopt the same plan I did in 1864 and 1865, which met with his entire approbation, and which was, going to the mouth of Little Arkansas, and from there sending reliable messengers, accompanied by some of the To-woc-a-roc, Wycoes, or some of the other friendly refugee Indians, that I am well acquainted with, with instructions to the Kiowas and Comanches to stay away from the Santa Fé road, but as near the Salt plains as they could procure subsistence, until I could meet the chiefs and headmen, as circumstances would permit, on the Cowskin, Miniskaw, Shikaski, or on Bluff creek.

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My runners have gone to them, and, as soon as I can see what is to be done about the annuity goods, I shall go and meet them; but when I do so, I wish to be prepared to tell them just what they can depend upon. Lieutenant General Sherman finished up his trip west by going to Fort Harker, and on his return I met him on the train I came to St. Louis on. He informs me, and I am most happy to communicate the fact to the department, that the Indians of my agency, "Kiowas and Comanches, *are all right.*" I cannot make any statement more gratifying, except that this letter will close my correspondence, so far as Major General Hancock's Indian expedition is concerned, unless something of importance turns up.

I am, sir, very respectfully, your obedient servant,

J. H. LEAVENWORTH,
United States Indian Agent.

Hon. N. G. TAYLOR,
Commissioner of Indian Affairs, Washington, D C.

No. 32.

DEPARTMENT OF THE INTERIOR,
Office Indian Affairs, May 28, 1867.

SIR: This office is in receipt of a letter from Agent Leavenworth, dated May 22, in which he states that he had informed you that he should go to the north of the Little Arkansas, and from there send messengers to his band, telling them to keep away from the Santa Fé road, but expecting to meet their chiefs at some future day "on the Cowskin, Mineskaw, Shikaski, or on Bluff creek;" and he desires definite instructions as to what he shall say to the chiefs.

Presuming that the instructions desired have special reference to the subject of the distribution of annuity goods, and in the hope that you may be able soon to communicate with him, the following instructions are presented, with the approval of the Secretary of the Interior:

You will instruct both Agent Leavenworth and Agent Wynkoop that they will take the same course as last year in regard to delivery of annuity goods—that is, they will not deliver any goods to bands which have committed hostilities, but will cause them to be stored at some safe place, under protection of the military, until it can be ascertained which bands, if any, have remained peaceable. If a part have kept their pledges of peace, and a part been hostile, all of the goods will be delivered to those who have remained peaceable. No goods will be given to any bands who retain any captive citizens in their possession whom they refuse or fail to deliver; but the agents are authorized to use their discretion as to the distribution of goods to bands which may have been to some extent hostile, provided they shall restore any captives held by them, make restitution of property taken, and promise good conduct in future, if, under the circumstances, there shall exist good reason for believing that such promises will be observed.

A copy of these instructions will be sent to the Secretary of the Interior, with the request that they may be communicated to the War Department, so that the military officers at the various posts may be advised of the course which is intended to be pursued.

Very respectfully, your obedient servant,

N. G. TAYLOR, *Commissioner.*

THOMAS MURPHY, Esq.,
Superintendent of Indian Affairs, Atchison, Kansas.

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No. 33.

LEAVENWORTH, KANSAS, *May* 27, 1867.

SIR: I have the honor to transmit herewith a circular issued by the superintendent of the United States Express Company to their employés on the Smoky Hill route from Fort Harker to Denver City. I would call your attention particularly to the paragraph marked, viz: "If Indians come within shooting distance shoot them; show them no mercy, for they will show you none." I am credibly informed that General Hancock has issued similar orders to commandants of all posts in his district, and has virtually declared war upon all Indians found north of the Arkansas and south of the Platte rivers.

According to existing treaty stipulations the Cheyennes, Arapahoes, and Apaches have permission to live in and roam over the country lying between these two rivers until the President orders their removal to reservations selected for them. If the government countenances these arbitrary acts of military commanders and superintendents of express companies in violating treaties, it is unreasonable to expect that the Indians will keep their part of those treaties. If this condition of affairs is permitted to exist much longer, every effort that has been made during the past two years by the civil officers of the government to promote peace and friendship among these Indians, and to prevent depredations, will have been utterly in vain; and it is but reasonable to expect that an Indian war of gigantic proportions will ensue, which will astonish the American people and cost millions of treasure.

In view of these facts, I respectfully request that you will take such immediate steps as will, in your judgment, the soonest and most effectually put a stop to these arbitrary and cruel orders.

Very respectfully, your obedient servant,

THOMAS MURPHY,
Superintendent of Indian Affairs.

Hon. N. G. TAYLOR,
Commissioner, Washington, D. C.

No. 33 A.

OFFICE UNITED STATES EXPRESS COMPANY,
(*Denver Division,*) *St. Louis, May* 18, 1867.

To Agents and Employés:

General Hancock, commanding department of the Missouri, will at once place a sufficient number of soldiers at each station, from Lookout to Lake, inclusive, for your and our mutual protection. You are instructed to carry their mail matter and communications from the officers and men to the several posts and commanders—*to deliver them promptly and with certainty.* You will also carry to the amount of two hundred pounds of rations for soldiers between stations when required; furnish transportation for all soldiers on regular coaches on proper authority, in writing, from the commanding officers of the several posts, and will not furnish without, under any circumstances; neither encourage nor countenance desertions in any form.

You will hold no communication with Indians whatsoever; if they wish "talk," they must go to the regular posts. If Indians come within shooting distance, shoot them; show them no mercy, for they will showyou none. You must be watchful; when you have so many at each station, one must be constantly on guard, day and night, and at all hours. In this watchfulness you will save your stations from being fired, and can prepare yourself for any dan-

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ger. You will also report to either Fort Hayes, Fort Wallace, or posts that will be established, whichever is nearest to you, all depredations as they may occur, and to your division agent, without exaggeration. General Hancock will protect you and our property, but requires, as we do, your vigilance and hearty co-operation.

W. H. COTTRILL, *Superintendent.*

No. 34.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., May 30, 1867.

SIR: The accompanying communication from General J. B. Sanborn, special Indian commissioner, dated Fort Laramie, May 18, 1867, is referred for your information, and is to be returned to the department for presentation to the President to-morrow, the 31st instant. If you desire it, a copy may be taken of the letter for the use of your office.

Very respectfully, your obedient servant,

W. T. OTTO, *Acting Secretary.*

Hon. N. G. TAYLOR,
Commissioner of Indian Affairs.

No. 34 A.

FORT LARAMIE, D. T., *May* 18, 1867.

DEAR SIR: The operations of General Hancock against the Cheyenne Indians have been so disastrous to the public interests, and at the same time seem to me to be so inhuman, that I deem it proper to communicate my views to you on the subject.

Permit me to premise by saying that I have the highest appreciation of the services and character of General Hancock and his subordinates, and shall say nothing with a view of injuring them or marring their well-earned fame, but write with the sole view of subserving the public interests.

You will recollect that my information and acquaintance with the Cheyenne tribe is somewhat extensive, having campaigned against and made treaties with them in the summer and autumn of 1865.

This tribe of Indians had been allies of the government, and had done more to make travel and transportation across the plains safe than any other class of people, up to August, 1864, when by being cursed and driven away from trains to which they had returned cattle that had been stampeded in storm, without food, presents, or compensation, which they had been accustomed to receive in such cases for many years, and by having several of their young men killed by Colorado troops because they took back a pony from a ranchman, who, in violation of law, had taken him from a drunken Indian in payment of a pint bottle of whiskey, they or some of the young men went to war.

Notwithstanding these outrages upon them, the head chiefs gathered all their people possible, bought from the hostile Indians all the captives possible, and at great expense in ponies, and proceeded to Fort Lyon and surrendered them, and offered to do anything in their power to restore friendly relations.

The commanding officer at the post guaranteed them protection, designated a place for them to camp on Sand Creek while the chiefs and young men were absent to bring in the hostile and procure food for their people, and gave them a United States flag to indicate their friendship and insure their protection.

While thus encamped, and at a moment of their feeling of greatest security,

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with a few chiefs who had always been the firm friends of the whites—some old men and many women and children present—a body of United States troops is seen by them approaching, presumed by them to be on a friendly mission, of course. White Antelope, who had made himself a servant of the whites on the plains, stepped out apparently to greet and welcome the troops. As he did so, instead of beholding friends, he saw the line halt, and in obedience to orders, preparation made to fire. He raised his hands to his face and was shot down like a dog, and the massacre of women and children commenced. Some twelve old men and about one hundred and fifty women and children were put to death by the troops. Helpless infancy and decrepit age shared the same fate. Women were scalped, disembowelled, and unseemly parts cut from their places and borne off on the pummels of saddles or bridles of horses. Some of the few captured children, after they had been carried many miles with the troops, were taken from the wagons and their brains beaten out.

This tribe is again in trouble, and how has it been brought about? General Hancock, in his speech to the head-men on the 15th ultimo, used the following language to them, as reported in the Army and Navy Journal: "I intend not only to visit you here, but my troops will remain among you to see that the peace and safety of the plains is preserved. *I am going to visit you in your camps!*" It is true that there is nothing wrong in these words, in themselves considered, and there are many tribes of Indians who would have heard them with delight and hailed a visit from the troops with joy; but to the Cheyennes these words were words of war. They could see nothing in the execution of the promise therein contained but murdered and scalped women and children, captured ponies and burned villages. There were in the tribe wives of chiefs who had not less than twelve scars of bullet wounds from shots received at Sand Creek while lying upon the ground and imploring mercy on account of their sex, and were left for dead, but came to life. How, then, does the case stand? Is it not in this wise?

"You Indians permitted our army to visit your villages, supposing it friendly, and we killed your women and children and old men, captured and drove away your ponies, burned your lodges. Now we are going to visit your village again, and if you do not trust us, and dare leave before our arrival, we will burn it up and wage a war of extermination against you." Thus stands the case; and for a mighty nation like us to be carrying on a war with a few straggling nomads, under such circumstances, is a spectacle most humiliating, an injustice unparalleled, a national crime most revolting, that must, sooner or later, bring down upon us or our posterity the judgment of Heaven.

It is true that horses have been stolen, ranches burned, and men killed, in the region in which these Indians hunt, but in what part of our country have not such crimes been committed? and they are little, if any, more frequent in occurrence in this Indian country than in other places having the same number of people. Holding states, nations, or tribes responsible for crimes committed, has been abandoned for many years, and there seems no reason for applying that rule in this case.

But as loudly as Christianity, mercy, and humanity call for peace with a people who can be forever kept quiet with a tithe of the expense of even a small military expedition, sound policy calls still more loudly.

The whole object sought or desired to be obtained by the government in its dealings with the Indians of the plains is supposed to be safety of travel and transportation to and from the mountains. Can this result be secured by war? Reason and observation unite their voices in answering No.

He who argues that the safety of travel and transportation is secured by war, argues that a hostile country is safer for its enemies than a friendly one is for its friends. This is an absurdity. In peace alone does the traveller on the plains find safety.

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But some war policy man may say, We wage war to secure permanent peace. No Indian war has ever thus resulted, and in the nature of things cannot so result; for the Indians have no permanent villages, no base of supplies, and no strategic points.

That they can be driven from their country and from the plains is true, but only after all animals upon which they subsist were so far destroyed that the Indian can no longer find food; for, adding the reason of the man to the instinct of all animals to secure their own safety from destruction by all possible means, he will, of course, be the last to be destroyed; and while life lasts, and war continues against him, he will steal the property and take the life of the whites on every favorable occasion.

War against them is, then, the most absurd, expensive and ridiculous policy. Pursuing them with a command sufficiently large, only one or two can occasionally be seen; while with a small command, they are wont to mass and destroy it. And with a country some thousand or fifteen hundred miles square for them to roam over, unfit for settlement or occupation by civilized men, they cannot, though few in number, be destroyed in many years.

The war policy is not urged by general public sentiment of the country, but furiously urged by ranchmen on the plains, army contractors, and some of the army officers, who in this matter, at the present time, seem to be ruled and controlled by the ranchmen and contractors.

Military posts in the Indian country, which used always to be the refuge of the peaceful Indians in time of war, in some instances now refuse to afford any protection to the innocent, and the Indians flee from them as from a pestilence.

Army officers of high grade openly proclaim their intentions to shoot down any Indian that they see, and say that they instruct their men to do likewise.

I do therefore most earnestly urge that no new wars shall be commenced. If Indians are dissatisfied, satisfy them with most liberal presents. Above all do I urge, that either your department issue a circular, or the War Department an order, defining the rights of the Indians while in their own country, and the relations sustained by them to the whites, as expressed and established by our Supreme Court, for the use of the army, whose officers seem to be all at sea on this subject.

We should easily have secured a general peace had it not been for the trouble with the Cheyennes. We may prevent general war still. Operations against the Cheyennes should immediately cease, and commissioners be sent them; otherwise our mining interests, railroad interests of the plains, and all our interests in the mountains will suffer terribly, only to gratify the whims or caprice of some men and officers who have openly proclaimed that we must have a general Indian war and an extermination of the race.

I have the honor to be, very respectfully, your obedient servant,

JOHN B. SANBORN,

Late Maj. Gen. Volunteers, Special Indian Agent.

Hon. O. H. BROWNING,

Secretary of the Interior, Washington, D. C.

No. 35.

OLD FORT SULLY, *June* 1, 1867.

HONORABLE SIR: In accordance with the instructions received in the letter of the Commissioner of Indian Affairs, dated 2d March, 1867, by which I was appointed special commissioner to visit all the Indian tribes on the Missouri river, both on the north and south side of it, &c., and to correspond with the

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Indian Bureau, I have the honor and take this present opportunity to address to you the following communication:

I left St. Louis on the 12th of April, via Chicago, and hence by the North-west railroad for Omaha. At Boonsboro' we were detained three days; the sudden melting of the snows had swollen the rivers and creeks, and the spring floods had carried off the bridges and inundated the railroad track in several parts, rendering it impassable. On the 16th the cars proceeded to Denison, a distance of 90 miles, where I hired a wagon and continued on my way to Sioux City, one hundred miles. On the 30th I took my passage on the steamer Guidon, in company with the Yancton chiefs, their companions, the Brulés and others. We arrived at the Yancton agency after six days' progress, 260 miles.

I need not dwell on the good and friendly dispositions of all the chiefs composing the various deputations, under the fostering care of their worthy agents. Their trip to Washington has had a most happy result, and bears evidence of proving very beneficial and lasting. The Yanctons, in this upper portion of the country, set the example to the other Sioux tribes. They like agriculture; they go cheerfully to work, in which they are much encouraged by their worthy agent, and their farmer, who spare no trouble to assist them in their various avocations of labor.

On the 17th of May the Big Horn, after thirty-three days' navigation from St. Louis, arrived at the Yancton agency and landed my wagon, my three animals, and the little stock of provisions for my trip.

On the 21st, I left the agency, by land, with an interpreter well recommended, the son of old Zephyr Rencontre, Mr. Joseph Picotte as assistant, very favorably known among the Indian tribes, and a half-breed horse-guard. We met several Indian bands and families, all friendly and well disposed towards the whites.

On the 26th I arrived at Fort Thompson. I found over one hundred Indian lodges encamped, chiefly of Brulés, Two Kettles and Yanctonnais. The next day I held a council with the chiefs and braves. The principal chiefs were the Iron Nation, the Iron Eyes, the Two Lances, White Hawk, the Bone Neck-cloth, and the White Bear. I explained to them in full length the benign views of government in their regard, the absolute necessity of keeping aloof from the hostile bands, and to continue at peace with the whites for the security and welfare of their families. The council lasted several hours, and to all appearance had a happy effect. In their speeches and replies they made the most solemn promises to listen to the advice of their Great Father, (the President,) and remain at peace with the whites. They declared at the same time their critical situation and dread of their own people, now on the war path, from whom they receive constantly insulting and threatening menaces.

The above bands express a great desire to imitate the example of their Yancton brethren, and, like them, "to stir up the ground, to nourish their wives and children. They trust their Great Father will take pity on them and assist them in their need." I remained two days among them.

On the 29th I proceeded on my way, and arrived at old Fort Sully on the 30th. Over two hundred lodges were on the spot, consisting principally of the Two Kettle bands, Blackfeet Sioux, Brulés, Yanctonnais, Yanctons, Sans-Arcs, Minneconjoux and Ogallallas. The next day I held a long council with them, which was attended by over twenty-four chieftains. The principal chiefs were the "Great Mandan," the man who serves as a shield; the "Fire Heart," the man who kills the first; the "Iron Horn," "Yellow Hawk" and "Red-tail Eagle." Like at Thompson, I made them acquainted with the object of my visit, in accordance with the instructions I have received. All their answers and speeches were very favorable, expressing a strong determination of peace and friendship to the whites. All these portions of tribes express the greatest desire to be placed on reserves for the cultivation of the soil; and, until the fields would

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yield them plenty, they intend to rove peaceably over the prairies in quest of game, roots and berries.

From all I have observed and learned among the Indians at Thompson and Sully, I entertain no doubt of their good disposition towards the whites. Fatherly and kind agents, with proper attendants, will always effect great good among these poor and benighted people. They look to the government for protection and assistance, of which they stand much in need.

The chief Long Mandan, who was in Washington lately, sent out six young warriors to carry the words of their Great Father to the hostile bands in the plains; at the same time to apprise them of my presence in the country, and my earnest desire to meet them. They may soon bring back the answer of the enemy. I trust it may be favorable, and that I shall be allowed to meet him in his own camp. The return of the six Indians must regulate my immediate and future course. I shall deem it my duty to inform you on the first occasion.

With the highest consideration of respect and esteem, I have the honor to be, honorable sir, your humble and obedient servant,

P. T. DE SMET, S. T.

P. S.—Before closing my letter I am happy to learn that on the 4th instant, General Sully will be at his old post and hold a conference with the Indians. The general's experience in the country is great, and he stands high in the opinion of the Indians. His advice and direction will be of great value to me in carrying out the views of government.

D. S.

Hon. N. G. TAYLOR,
Commissioner of Indian Affairs.

No. 36.

[Telegram.]

FORT LARAMIE, DAKOTA,
June 13, 1867.

Hon. O. H. BROWNING,
Secretary of the Interior:

Twelve (12) chiefs and three hundred (300) Ogallallas and Brulé Sioux, representing two hundred (200) lodges, came in here yesterday. They say they will remain at peace and join Spotted Tail. They report all the northern Indians have abandoned hostilities and will arrange for peace.

JOHN B. SANBORN,
Special Indian Commissioner.

No. 37.

FORT LARAMIE, D. T., *June* 16, 1867.

SIR: I have the honor to inform you that on the 12th and 13th instants we held councils with the chiefs, headmen, and warriors of the hostile portion of the Ogallalla and Brulé bands of Sioux Indians. Some Minneconjoux were present but that band was not duly represented. These three bands, with the northern Cheyennes and Arapahoes, comprise all the Indians, with few exceptions, that participated in the massacre at Fort Phil. Kearney, and the hostile Indians of the northwest. These Indians affirmed that the Minneconjoux, Cheyennes, and Arapahoes would follow any policy or course adopted by them. They also stated that they were badly punished at the Phil. Kearney massacre, poor and tired of the war, and willing to make peace and keep it. We required all that were earnestly in favor of peace to leave their country and go to the vicinity of the forks of the Platte. We feel confident that about one hundred and fifty

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lodges of the two hundred represented will go, and many more may go. This will weaken and discourage the hostile Indians so much that they will not hold out long.

The Indians made urgent appeals for powder, but we refused to allow them any. Our firmness in this respect, and kindness at the same time in other matters, seemed to have a favorable effect upon them. Friendly chiefs Big Mouth and Spotted Tail made strong peace speeches to the hostile, with marked effect, and they went away resolved to abandon war. Time must test their sincerity and firmness. Red Leaf and the other chiefs promised to see the chiefs of the northern Cheyennes and Arapahoes, and of the Minneconjoux, as soon as they get back to their country, and induce them if possible to come in here and make peace. They stated they would be back or send messengers in thirty days. We promised them that Commissioner Beauvais should remain here to meet and counsel with them at that time. He will remain accordingly. I shall now leave for the east.

The Indians still strenuously object to the Powder River road, and say that it destroys their only reliable hunting ground, but stated they did not want to fight any more, and did not know what they could do about it. We proposed to them to have one of the chiefs of each band and one leading soldier visit Washington in the fall, and make a final treaty in regard to it. To this they did not respond further than to say they would deliberate upon it and make up their minds.

We have arranged to have chief Big Mouth move his village, numbering about seventy-five lodges, to the vicinity of the forks of the Platte, and join Spotted Tail.

General Sherman informed us yesterday that chief Pawnee Killer, with about fifty lodges, (Ogallalla Sioux with the southern Cheyennes,) had offered to come in with his people to Fort McPherson, and join Spotted Tail. He was permitted to do so by General Sherman upon our recommendation. All these additions will increase the number with Spotted Tail to about five hundred lodges.

The commissary here has been unable to supply us with rations either for Big Mouth's village or the Indians in council, from want of stores, and there has been a very scant supply in the country. But we have purchased beef and corn and some coffee and sugar. This condition has greatly increased our expenses. We have issued since we have been here, mostly for subsistence, vouchers to the following parties, at the date and for the amounts named:

May 29.	George W. Lang & Company	$278 03
June 10.	Leon Pallardy	439 50
June 12.	Asaph Allen	565 00
June 12.	William Tucker	100 00
June 12.	Caffey & Cunsy	1,427 37
June 12.	Reed & Whitehead	442 50
June 15.	Lang & Company	621 06
June 15.	S. E. Ward & Company	677 50
June 15.	H. S. Schell, M. D	55 00
		4,605 96

Very respectfully, your obedient servant,

JOHN B. SANBORN,

Special Indian Commissioner, President pro tem.

Hon. N. G. TAYLOR,

Commissioner of Indian Affairs, Washington, D. C.

No. 38.

FORT RICE, *June* 16, 1867.

SIR: A boat just about leaving gives me the opportunity of writing you to inform you of our whereabouts. We reached here to-day, found over 500 lodges

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of Upper Sioux waiting for us, and hear many more are on their way, in which we will see. Our meeting here will be of much importance. I will send you a full report of the same if it is so. I have no time to write you at present except in this semi-official manner.

With much respect, your obedient servant,

ALF. SULLY,
Brevet Brigadier General, President of Commission.

Hon. N. G. TAYLOR,
Commissioner of Indian Affairs.

No. 39.

EXECUTIVE OFFICE, YANCTON, D. T., *June* 17, 1867.

SIR: I have the honor herewith to enclose the report of Special United States Agent General Charles T. Campbell, dated June 13, 1867. Having distributed the Indian goods intrusted to him in the autumn of 1866 among the Sioux of the Upper Missouri, I have deemed it proper to require him to report to you in person at Washington for further orders.

This course I have adopted specially because it is, in my opinion, important for him to communicate more fully to you his knowledge of the present condition and wants of the tribes above referred to. You will find his report full of practical views and valuable recommendations.

I have the honor to be your obedient servant,

A. I. FAULK,
Governor and ex-officio Superintendent of Indian Affairs.

Hon. N. G. TAYLOR,
Commissioner of Indian Affairs.

No. 39 A.

YANCTON, D. T., *June* 13, 1867

SIR: I arrived at the Crow Creek agency 29th of May last. I found, owing to the want of implements and the wet season, very little progress made in ploughing. What was ploughed was very readily planted by the Indians, who seem anxious to go ahead with their farming. The want of the saw-mill is a great obstacle in the way of their progress, and I would recommend its early repair. There were at the agency about 150 lodges anxiously waiting for the arrival of the farming implements, and the ground to be ploughed. Owing to this want and the wet season, there will be but little progress made this year in farming at the Crow Creek agency.

I arrived at old Fort Sully June 1, instant I found there about 220 lodge of the different bands belonging there; they were waiting the coming of the farming implements and the distribution of the balance of their goods, which was done the following day, satisfactorily to them and myself; all were issued as equally as possible. There remained on hand a portion of the Ogallalla goods which I shipped to Fort Rice for Major Hanson, or any other agent, to distribute to the Ogallallas that may be there at the next distribution. This was satisfactory to the 28 lodges that were at Fort Sully (old.)

These Indians are in excellent condition at present and are satisfied with what has been and will be done for them, except that they have been again disappointed in getting their ground ready in time for planting, and that they have to depend upon hunting for subsistence while the crops are growing. Major Hanson, immediately after the arrival of the farming implements, sent them six yoke of cattle and wagons, with ploughs sufficient, which have arrived by this time, as I met them going up when on my way to this place. I urged upon the department in my report of last February, and others previously made, the

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great necessity of having, early in the spring, the cattle and implements on the ground, ready for work when the season opened; a week longer delay would certainly have put an end to farming operations and found the Indians scattered over the prairie.

The visit of the headmen and chiefs of these bands to Washington has had a most extraordinary effect upon them and their bands. They acknowledge their former erroneous opinion with regard to their position and power, and the intentions of the white man and his government; they feel satisfied what has been done is for their benefit. I now feel satisfied that if the hostile Indians could be compelled to leave their present haunts and return to their respective bands, they could all be located on the banks of the Missouri, and in a few years be self-sustaining.

The change for the better in these Indians since 1863 is greater than in any civilized or uncivilized people in the same time whose history I am conversant with.

The appearance among them again of Father ——— has an astonishing influence; they adopt his religion, made plain to them by his peculiar zeal and manner of instruction; they adhere to it and wear with pride the medal of the Holy Cross as a charm that may lead them to good acts, knowledge and happiness.

I must again urge the great necessity of making reservations for these Indians immediately. They have now under the treaty, most of them, designated their locations, and are now occupying them; they have selected very judiciously the best lands for planting, with sufficient timber and water; really no better soil exists than it is. As it is, these lands are subject to destruction by everybody who chooses to use them; it is the constant complaint of the Indians, and vexatious to them, to see their timber destroyed, and locations made upon what they are guaranteed by the treaties to hold forever; to prevent this it is highly necessary to have positive landmarks here as well as anywhere else for the same purpose.

By making these reservations you would have four Indian reservations nearly joining each other on the Missouri river, upon which there would be ample room for the whole nine bands of Dacotah Sioux.

Whilst these Indians are being located and commencing their new pursuit, it will be necessary beyond any doubt, to enable them to more successfully progress, that part of their annuity be expended in the purchase of subsistence for them during the summer months, (if no further appropriation can be made, which I would recommend.) This they wish and ask for; their complaint that they are not able to live without hunting during the planting season would then cease; and if instructions be given to the agents to issue to none but those who work, they would soon see the advantage of a little industry.

At the Yancton agency everything looks prosperous and happy. Their grounds are mostly planted. I estimate they have about one thousand acres ploughed, which will all, and probably more, be planted.

The prosperity of these Indians, and their pride of their possessions, and the reward for their industry, are sufficient to convince any reasonable person that the Indian can, and eventually will, become a good and valuable citizen. The Indian is susceptible of cultivation. In comparison with the African, he is greatly superior; and with the advantages the African now has, he would rise far above him in knowledge and usefulness.

On the 5th instant, at old Fort Sully, a Brulé Indian, belonging to the Lower Brulé band at Crow Creek agency, returned from near the Red Buttes on the Platte. I sent for him, and questioned him particularly about the whereabouts and movements of the hostile Indians. He left the Platte about the 1st of May; came by the Bear Butte, where he saw the first Indians. They were ten lodges of Ogallallas. He found no others until he came to the Low Pines upon the headwaters of the Heart river, which is about one hundred and fifty miles northwest of new Fort Sully, where he found a large camp of all the different bands

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of hostile Indians. The camp was so large that he could not enumerate the number of lodges; but it was larger than he had ever seen before. The men were mostly away on the war path. When they returned they were going to the Missouri to trade. They were then preparing for it. They were rich in horses and mules, and had been successful in war and hunting. From this camp he came to old Fort Sully, where he crossed the river. He gave me this information with a great deal of care, and I have since learned from other Indians that it is true and reliable.

A few days before I arrived at old Fort Sully, the headmen and chiefs of the Minneconjoux and Sans Arcs, hearing that a camp of their bands was about eighty miles distant upon the Meauro, sent six of their young men to the camp to urge them to come in and quit the war path. These young men returned on the 6th instant, followed by about two or three hundred Indians from this camp, with many mules packed with material for trade. This impressed me with the belief that they would in all probability remain with their bands at old Fort Sully; but I was mistaken. They seem to have no disposition to do it. General Sully and Colonel Parker, the commissioners, arrived the same day, and on the 8th instant held a council with all the chiefs present, including those who came from the camp on the Meauro, who were invited by the commissioners to come over to the council. They replied to the words of the commissioners with a great deal of earnestness and warmth. Instead of approving of the wishes of their Great Father, they demanded the removal of all the troops and white men from that country except the traders, the vacating of all roads, and the stopping of all steamboats. It was the only way peace could be had. They wanted no assistance or care, and it was not their wish or nature to cultivate the soil; that they were not coming over the river with their lodges, but that they came to trade, and more would come. They came for nothing else.

Of the locality of these Indians I immediately advised General Stanley, commander of this district at Fort Sully.

The intentions or plans of these Indians cannot now be known with any certainty. That they are determined to prevent, by every means, the march of civilization in their country, is certain. They are united, and feel themselves strong. Being successful in war and the chase of late, they are rich in their estimation, and proud of their condition when compared with those of their tribe who have remained at peace and taken the advice of the white man. It will not be possible for them to remain long inactive so near the Missouri settlements. The late raid upon Fort Randall, and the shooting of every white man they found on that side of the river, is only a commencement of their marauding and murder. There is nothing to prevent them from their pursuit between the town of Yankton and the remotest fort on the upper Missouri. They can pass the military posts garrisoned with infantry, as a traveller does a hand-board, and return by the same road with their scalps and plunder, as I saw them and heard them sing their war song near Sully on my way to this place.

They may not commit many depredations upon the settlements immediately, as the most of their warriors are now on the war path far westward. I think their intention is to trade and supply themselves with blankets and ammunition wherever they can procure them. They have, no doubt, an arrangement with the Red river traders to meet them this season, as they did last, with a full supply.

I cannot too strongly urge upon the department the great necessity of preventing this infernal traffic with these Indians, and again say that it is impossible to prevent it or the expected depredations of the hostile Indians without a strong force of cavalry, to be used against these offenders whenever they appear, it matters not under what pretence whatever. There can be no mistake made in attacking any Indians between the Missouri and the Yellowstone or the Platte. There are no friendly Indians there. They are where they have been since the treaties, on the north and east banks of the Missouri. The influence

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upon the friendly Indians of these hostile hordes, who are now near and coming among them, is very bad. They ridicule them for their inactivity, and boast of their wealth and power, which induces many of their restless young men to join the hostile camp, in opposition to the entreaties of their headmen and chiefs.

If the government intends to conquer these hostile Indians, they should do it at once, or at least use every endeavor. The longer the delay the stronger the enemy grows. They must give up summer campaigns upon travelled roads, and penetrate the heart of the country with active troops, ready to hunt them in the winter and drive them from the timber to the frozen plain, occupy their profitable places of resort, and you will soon find them coming crawling back to their respective bands east of the Missouri, and join with them in their pursuits.

I am now convinced that no further treaty should ever be made with these Indians. They belong nearly all of them to the nine bands of Sioux. A nucleus of each band, with their headmen and most of their chiefs, remain at peace, and are satisfied with the treaties and the stipulations thereof already made. They should be either killed or compelled to join their respective bands.

The Territory of Dakota to-day would be in a most prosperous condition, were it not for the hostile attitude of these Indians. Her citizens are deprived of opening and developing her mineral resources, or improving some of her best agricultural lands. Here in this vicinity to-day are two hundred men ready to go to the Black Hills to locate and develop that country, said to be rich in gold and pine; but they are suddenly met by thousands of hostile Indians, who say they shall not cross the Missouri. Could these enterprising men be successful in reaching their intended location, they would soon be followed by thousands of others from the east and west, which would give a death-blow to the operations of this common enemy. I do hope the department may see the necessity of immediate action being taken, and may urge the War Department to use every means to thwart the ruinous intentions of these roaming savages.

I am, sir, most respectfully, yours,

C. T. CAMPBELL,
United States Special Agent.

Hon. A. I. FAULK,
Ex officio Superintendent Indian Affairs.

No. 40.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., June 19, 1867.

SIR: The accompanying copies of despatches from Lieutenant General Sherman, dated Fort McPherson, Nebraska, were handed to me on yesterday by the honorable the Secretary of War, and are referred for your information.

Very respectfully, your obedient servant,

W. T. OTTO, *Acting Secretary.*

Hon. N. G. TAYLOR,
Commissioner of Indian Affairs.

No. 40 A.

FORT MCPHERSON, NEBRASKA,
June 17, 1867.

SIR: Your two despatches of the 15th are received. General Sanborn reported to me the same from Laramie. He is very sanguine; I am less so; but General Augur is *en roate* for Laramie to judge for himself. We, Augur and self, are willing the peaceably intended may come into Brady's and Grand Islands, on the Platte, or as prisoners at one of the posts. All else to be considered hostile.

They will simplify the game. Say to the President that I think the Indians

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on small reservations in absolute contact with the whites, peaceable from habits and necessity, should be managed by the Interior Department; but the Plain Indians are by nature nomadic and hostile, and should be passed over to us.

We are perfectly willing that the agents named and runners should go out and bring in Indians from the hostile tribes, but they must come in as prisoners until we can make permanent provision for them. I came here to start General Custer round by the Republican on the 24th. General Augur will be at Laramie to confer with the commission.

W. T. SHERMAN,
Lieutenant General.

Hon. E. M. STANTON,
Secretary of War.

No. 40 B.

FORT MCPHERSON, NEBRASKA,
June 17, 1867.

My opinions of Indian matters now are best embraced in two letters written to General Grant and one to Secretary Browning. I ordered a copy of them to be sent you from St. Louis to-day. My opinion is, if fifty (50) Indians are allowed to remain between the Arkansas and Platte we will have to guard every stage station, every train, and all railroad working parties. In other words, fifty (50) hostile Indians will checkmate three thousand soldiers. Rather get them out as soon as possible, and it makes little difference whether they be coaxed out by Indian commissioners or killed.

W. T. SHERMAN,
Lieutenant General.

Hon. E. M. STANTON,
Secretary of War.

No. 41.

OFFICE OF SUPERINTENDENT OF INDIAN AFFAIRS,
Atchison, Kansas, June 20, 1867.

SIR: I have the honor herewith to transmit a letter of the 8th instant from Agent Wynkoop, enclosing copy of a letter of the 29th ultimo from James J Morrison, who states that he met and conversed with young Little Big Mouth, a chief of the Arapahoes, who, with some of his people and a portion of the Cheyennes, are on the Washita river, about two hundred and fifty miles south of Fort Zarah, and informing the agent that it was the earnest desire of these Indians to remain at peace. This I believe to be the desire of all the Indians who have gone south of the Arkansas, and I also believe that those Indians who have gone north of the Platte have done so for the purpose of joining other hostile tribes, and are now on the war-path. If I am correct in these conclusions, (and I draw them from the best information obtainable,) I would respectfully ask, is it not right and is it not the duty of the government to send their agent or some other proper officers of the government, duly authorized and empowered, to see and talk with these Indians while they are friendly disposed? Recollect that war was declared on all Indians found south of the Platte and north of the Arkansas rivers. This comprised the country inhabited by the Cheyennes, Arapahoes, and Apaches. The friendly disposed portions of these tribes have gone south of the Arkansas for protection. They are on the Washita, asking every white man they see to tell their Great Father that they are friendly dis-

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posed, and do not wish war. They are starving, and yet are peaceable, and know not what the government intends to do with them. In view of these facts, I would recommend that steps be taken to have some competent persons visit these Indians, and assure them that as long as they remain friendly and live up to their treaty pledges the government would protect them, and that these parties who may so visit them have authority to provide a place for them where they can be protected from military operations and hostile Indians, and in this last particular it would be well to consult with and have the co-operation of the military.

These are briefly my views in relation to the best course to be pursued towards these and all other Indians who desire to remain peaceable, with a hope of encouraging them to remain so, and should they meet with your approval, I trust that, faithfully carried out, those Indians who are now friendly will be kept so, and that they will be able to induce others to join them who are now hostile.

Very respectfully, your obedient servant,

THOMAS MURPHY,
Superintendent of Indian Affairs.

Hon. N. G. TAYLOR,
Commissioner of Indian Affairs, Washington, D. C.

No. 41 A.

UPPER ARKANSAS AGENCY,
Fort Larned, June 8, 1867.

SIR: I have the honor to transmit a copy of a letter lately received, showing the whereabouts at present of my Indians. As it is uncertain where I will be able to congregate the Indians for the purpose of issuing the goods, you will please have them shipped direct to my agency at Fort Larned. I forward by next mail a detailed report of all matters connected with General Hancock's expedition, together with an account of my investigation of an Indian outrage committed near Fort Dodge on the 4th instant.

I have the honor to be, with much respect, your obedient servant,

E. W. WYNKOOP,
United States Indian Agent.

Hon. THOMAS MURPHY,
Superintendent of Indian Affairs, Atchison, Kansas.

No. 41 B.

FORT ZARAH, *May* 29, 1867.

SIR: I have just returned from the Washita river, two hundred and fifty miles south of here, at which place most of the Arapahoes and Cheyennes of your agency are camped. Young "Big Mouth," on the part of the Arapahoes, wished me to inform you that neither he nor any of his band had committed any hostility, and had no intention of doing so; that he wished for peace on any terms, and would pledge himself to remain neutral even should the Cheyennes go to war. He is willing to remain in any region of country or agree to any arrangement that you wish to make. He says he does not wish to come near the Arkansas, as he hears of considerable trouble along the road with the soldiers. He wishes to avoid all contact with the military, if possible.

The Cheyennes did not talk quite as friendly, but they said the people on the Arkansas did not treat them well, and that they did not like them, but did not express any intention of going to war.

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I shall remain at the Big Bend several days, and if you wish to communicate with me, you can do so at that place. I am well acquainted with the country south of here, and if you wish to open any communication with these Indians, I am not otherwise employed.

I remain, at your service, respectfully,

JAMES J. MORRISON.

Colonel WYNKOOP.

No. 42.

FORT BERTHOLD, D. T., *June* 22, 1867.

SIR: Our last official communication was forwarded you from the Indian camp, at the place where Fort Sully formerly stood. Leaving our animals and wagons at the new fort, we took passage on a steamboat bound up the river, the reverend Father De Smet accompanying us. We reached Fort Rice the sixteenth instant. Here were encamped over six hundred lodges of Yanctonais, Flatheads, Unkapapoos, and a few Blackfeet Sioux bands, awaiting our arrival. The following were the principal chiefs of these bands: Two Bear, Medicine Bear, Thunder Bull, and Bighead, Yanctonais; Blackeyes and Blackleaf Fish, Cuthead, Killeagle, Blackfeet Sioux; Red Eagle, Running Antelope and Long Dog, Uncpapas. The representation of the Uncpapas was much larger than was expected, being over 120 lodges. Some of the chiefs and principal men have heretofore been very hostile to the whites. There were only about twenty lodges of the Blackfeet. The balance, except the 120 lodges of Uncpapas, were Yanctonais or Cutheads, who are about the same as the Yanctonais. All the Yanctonais, with the exception of the few located below and at the Lower Creek agency, were present; also all the Cutheads except Wahuotah's band, which we were told were on their way in. So, with the exception of the Santee Sioux, who we have not yet seen, they being located near the British line, and about their disposition towards the government we cannot state, it may be safely said that all the Indians east of the Missouri river are friendly. Of course there may be depredations committed occasionally by small war parties, and small parties of Indians on the west side of the river may cross over to steal. The military, however, are about establishing a line of posts on a mail route from Minnesota to this point, to which the Indians strongly object as interfering with their buffalo hunting. How far this may change the present friendly disposition of these Indians we are not prepared to state, although we fear it may, without some arrangement is made with them. On the west side of the Missouri, however, a large number of Indians are still hostile, and the success they have lately met with in their war about the Powder and Platte river countries, if not properly checked, may induce a great many of the young men of the peaceable bands to join them. It is as hard for an ignorant wild Indian as it is for an educated cultivated white man to remain quietly at home starving to death, having no means of hunting, being obliged to kill his horses to keep himself and children alive, and at the same time not allowed to purchase arms and ammunition to kill small game with, while he is visited daily by Indians from the hostile camp, trying to induce him to join them, and sees, by their warring with impunity on the whites, they have more horses and mules than they want, have plenty to eat, and procure all the arms and ammunition they want. Government must do something to relieve the immediate wants of the peaceable Indians, and prosecute without delay a vigorous war against those who are hostile, if they wish to prevent the war from being general and avoid involving the peaceable Indians of this section of country in it. The Indians at Fort Rice, in council, appeared to be more contented, more peaceably disposed, and had less complaints to make, than any we have yet met with. We think this in a great measure is due to kindness shown by officers at the post to the Indians and the judicious conduct of the

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commander in their intercourse with them. The following is the substance of their complaints, which we promised them we would report: They state that the commander who last visited them promised them many things which had not yet been fulfilled. The Yanctonais particularly complained that they were promised certain goods and farming implements, to be received last year at Fort Rice; that they looked for them all last summer and all this year, and as yet they have received nothing, while the few Yanctonais who had separated from them and went down to Crow creek had received all the goods intended for them. There is a general complaint by all that unauthorized persons have made men chiefs who were not the wish of the people, thus dividing the bands into fractions and destroying the authority of the proper chiefs, so that there was no proper one to govern them, no responsible head. They also complain that the amount of arms and ammunition allowed to be sold to friendly Indians is far from being sufficient for their wants. For these reasons it was difficult for the chiefs to keep the young men together. In spite of all they could do to prevent it, some of them would leave and join the hostile camp. In connection with the complaints of the small amounts of powder sold to friendly Indians, we beg leave to add that we know that the half-breeds of the north came across the line with a cargo of powder and whiskey. Generally they take the winter for their trade. Two Bear, the Yanctonais chief, states that many of his young men, against his order, visited the camp of these rascals, got drunk while there, and parted with their horses, clothing, and everything they had. We also understood from the military commander at Rice, that last October a party of the half-breeds came within sixty miles of his post. A force was sent after them, but as they have no ferry-boat there and no means whatever of crossing animals except by swimming them, so much time was lost that the half-breeds got off. There should be a good ferry at Fort Rice; a steam ferry is required, but this is a matter belonging to the military, with which we have nothing to do. We only mention it as the Indians begged us to report the necessity. We obliged them to remain for the present on the east side of the river, and they cannot cross over to communicate with the fort or trade at their only convenient trading post. As regards the Indians' complaints of the making of chiefs by unauthorized persons, we would respectfully beg leave to call the attention of the department to this. It is doing a great deal of mischief. We find not only these Indians here, but the Indians below here, as well as those on the Platte, make the same complaint about this matter. Military commanders, superintendents of Indian affairs, Indian commissioners, and even Indian agents, have created chiefs in different bands, so that Indian chiefs, like brevets in the army, are become so common they are not properly respected. Before leaving Fort Rice we deemed it necessary to cross over the friendly Indians encamped near the fort on the west side of the river to the east side, to prevent any of them from joining the hostile party on the west side.

I would beg leave to add that I have read this to the reverend Father De Smet, and he has requested me to state that he concurs in all here written.

I am, sir, very respectfully, your obedient servant,

ALF. SULLY,

Brevet Brigadier General and President of Commission.

Hon. N. G. TAYLOR,
Commissioner of Indian Affairs.

No. 43.

FORT BUFORD, D. T., *June* 28, 1867.

SIR: We arrived here to-day. Our last communication to you was written at Berthold. There we met Rees, Gros Ventres, and Mandan Indians. We found that the Indians had suffered greatly from starvation last winter.

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These Indians, as you are aware, no doubt, have for many years been at war with the Sioux. At present the Sioux, who are friendly to the whites, do not molest them, except by horse-stealing, which many of the friendly Sioux consider as yet a legitimate business, so far as regards these Indians. Even the Yanctons make raids on them, coming a distance of over five hundred miles to procure horses. Occasionally the Berthold Indians retaliate, and frequently Indians on both sides are killed in these operations. The hostile Sioux, however, kill them whenever they get the opportunity.

Being a very small body of Indians—not over two thousand, men, women, and children, in these three tribes—they dare not leave their village to hunt, even a short distance, without they all go together. They have to depend chiefly on cultivating the soil, and should the season prove an unsuccessful one, which is frequently the case in this section, they suffer greatly. They are warm friends to the whites; but at times, when they are almost starving to death, it is difficult for the chiefs and old men to keep their people from joining the more successful and *happy* hostile Sioux.

Policy, as well as humanity, demands that the government make more strenuous efforts to ameliorate their condition. We were very sorry to hear them express themselves so much opposed to the military. The troops lately have been moved from this place to a point twenty miles below. They begged that we would request the Great Father never to let the troops be located any nearer their village. If all the complaints they made of the actions of the troops are true, we are compelled to say that the commanding officer of this post showed a very great want of judgment in his intercourse with them. This request of theirs in regard to removal of troops is the more remarkable, as in 1864, at their urgent request for their protection, I stationed a company there, and during the time I was in command, up to 1866, I never had any complaint from them on this subject.

The order issued, prohibiting the sale of arms and ammunition to Indians, though a very necessary order as far as it regards the hostile Indians, is a very cruel and unnecessary one as far as it concerns these friendly Indians. While I was in command I furnished them with thirty old muskets and ammunition to protect themselves. These have since been taken away from them.

Another order issued, prohibiting traders from accompanying the village in winter when they move on their hunt, is very hard on these Indians. Timber being scarce in the vicinity of their village, they are obliged, in the cold weather, to move to the timber above. There they hunt. Sometimes they are located over sixty miles from Berthold. It is almost impossible for them to travel from their camps to Berthold in small parties, and without they do that they cannot procure the few necessaries they require to live on. We recommend that some limit be placed on the profits of the traders. These Indians complain bitterly about this; and from what we can learn, the traders at Berthold pay six pints of sugar, two pints of coffee, and four pints of flour, for a robe; in value, not over two or three dollars for a robe worth ten dollars at least.

These Indians, unlike the Sioux, are an agricultural nation, and are very anxious that the government furnish them with assistance to cultivate the soil. In fact, all the Indians we have so far met with express a desire to try the experiment of planting, except the very wild ones, who tell the others, "We will wait and see you try it first, and if you succeed, then we will follow your example." As it appears to be the desire of the government to induce the Indians to cultivate the soil, which will tend very much to civilize them and stop their warlike habits, we cannot too strongly urge upon the government the necessity of doing all they can to furnish them with the necessary implements, and render them some assistance in ploughing the soil. This should be done promptly, as promises made them not fulfilled, and delay, may cause many to give up in disgust their present good intentions.

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I would beg leave to add that this letter has been read to the Rev. Father De Smet, who concurs in all that is said.

Very respectfully, your obedient servant,

ALF. SULLY,
Brevet Brigadier General, President of Commission.

Hon. N. G. TAYLOR,
Commissioner of Indian Affairs.

No. 44.

FORT PHILIP KEARNEY, DAKOTA TERRITORY,
June 4, 1867.

SIR: I have the honor to enclose a copy of the proceedings of the special Indian commission, of date Fort Laramie, Dakota Territory, May 10, 1867.

In pursuance of the resolution which is herewith transmitted, I left Fort Laramie, Dakota Territory, on the 13th of May, under the escort of Brevet Lieutenant Colonel John Green, of the second United States cavalry, and arrived at this post on the 31st of May.

Nothing of importance occurred *en route*, with the exception of the appearance of hostile Indians on two different occasions, one at Bridger's Ferry, and the other at Sage creek. At Bridger's Ferry the Indians appeared in considerable force and drove off the cattle of Mr. Jules Coffey, a freighter of government commissary stores for this post.

Colonel Green promptly sent a number of mounted men, who recovered all the stock and captured two Indian ponies, without the loss of life on either side.

At Sage creek a number of Indians were seen about our camps, evidently in pursuit of stock; and on this occasion Colonel Green, in person, with three lieutenants and about fifty mounted men, pursued them about two miles. The Indians at times stopped to fire, and succeeded in killing two cavalry horses. The troops killed one Indian and one Indian pony.

On each of these occasions I am fully persuaded that the Indians were hostile, and belonged to bands of war parties that are now infesting the road between Fort C. F. Smith, Dakota Territory, and the crossing of the North Platte.

The arrows that were found upon the Indian that was killed are pronounced by good judges to be Cheyennes', but the hostile bands now operating upon this road are mainly Sioux.

These bands are led by Red Cloud, and the commission, at Fort McPherson, went so far as to send a message to General Wessels, of this post, by him to be sent to this chief, asking why he was at war, and whether he wished to meet, or would send any message to, the commission sent out by his Great Father. This message was intrusted to a Crow Indian at this place, and sent to Red Cloud, but as yet no answer has been returned.

On arriving at this post I found a small camp of Crow Indians, who, in connection with many others, had come here to meet the commission upon the invitation forwarded from Fort McPherson.

In consequence of our detention at points below, and my slow progress from Fort Laramie, Dakota Territory, to this place, quite a number of these Indians, becoming impatient at the delay of the commission, left on a hunt for Tongue river. I found in camp here the following chiefs: White Mouth, Bad Elk, and Roman Nose. White Mouth is one of the principal chiefs of the nation.

After a short interview with these chiefs, giving them some idea of my mission to the Crows, and making them a few presents, I engaged Roman Nose to go to the villages and inform the Crows that I had arrived, and request them to come as soon as possible to see me.

These villages are located as follows: the first on Tongue river, about sixty-

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five miles distant, and is composed of one hundred and ten lodges; the second about forty-five miles further on, and composed of ten lodges; and the third about thirty miles still further on, upon the Yellowstone river, and is composed of about forty lodges.

The names of the principal chiefs as they rank in the Crow nation are as follows: Winking Eye, Shot-in-the-Jaw, White Mouth, Thin Belly, Black Foot, Bird-on-the-Neck, Roman Nose, Long Horse, Bad Tooth, and Bad Elk.

A few days before I arrived the hostile Sioux came down upon the ponies of the Crows while herding at this place, and drove off in broad daylight forty-three of them, which were not recovered. I was obliged to furnish Roman Nose with a horse to bear my message, and instructed him to send Indian runners out from the nearest villages to the most remote, and to hasten the Indians in as soon as possible. I shall probably be delayed here until the 1st of August before I can see all these Indians.

In the war against these northern Sioux that seems now inevitable, the importance of separating from the scene of action the Crow Indians, and making of them permanent allies and friends, cannot be too highly estimated. They are peculiarly situated. The country from the Powder river to the Yellowstone river was their country until 1859, when they were driven from it by the Sioux. These mountain Crows have always been the friends of the whites. They would like to follow their instincts, which would lead them to oppose the Sioux, but being weak and the Sioux powerful, negotiations have been pending and an informal treaty of peace made by which they were to be friends with the Sioux. Without our protection, self-preservation will require them to join the Sioux. They much prefer the former.

I impressed upon Roman Nose the necessity of gathering in all the mountain Crows, intending as I do to locate them near this post while the war continues. In my own judgment they should be reinstated in the country of which they have been deprived. The Crows should be saved from alliance with the Sioux, not only for their own sakes, as an act of justice to them, but to limit as far as possible the number of Indians to be subdued.

It has been the policy of the commission to separate and protect all, without inquiring into their past conduct, who are *now* willing to be at peace with their Great Father. No class of Indians are better entitled to this consideration than the Crows.

Communication for the last six months has only been kept up between this post and Fort C. F. Smith, ninety-five miles above, through Crow messengers sent from the respective posts, and it is believed that Fort C. F. Smith with its small garrison of two companies has been saved by the timely advices communicated to the commanding officer of that post by the Crows.

In case I succeed in bringing in the Crows and establishing them near this post it will be necessary for your department to furnish them with supplies, such as flour, beans, rice, corn, and a little sugar and coffee; the corn for their own consumption and not for their horses. It will also be necessary that all suitable military protection be extended to them against incursions from the Sioux.

I regret that answers to our despatches from below, asking for specific instructions in relation to these Indians, have not come to hand. I find myself embarrassed, not having direct authority to promise protection, future supplies, or to reinstate them permanently in their country.

While speaking with Thin Belly, he advanced the point that forty-three ponies, stolen by the Sioux, mentioned before in this communication, were lost while the Crows were waiting for the commission, after the time set for the commission to arrive, and that the government should replace the stock lost, and this is some embarrassment to me in treating with them.

In consequence of the condition of the country, I cannot hope to receive any more definite instructions before it will be time to act. I shall not, however, hesi-

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tate to take such responsibility as may seem best for the public interest, trusting that, in the exigencies of the case, a liberal construction of my instructions will be deemed sufficient authority for taking such responsibility.

For present supplies for the Indians I shall probably be able to procure a portion from the commissary department at this post, General H. W. Wessels, commanding the district, being disposed to extend every reasonable facility to the commission in the discharge of its duty; but in case I succeed, as I hope to do, in locating the Indians temporarily here, while the war continues, it will be necessary for arrangements to be made by your department for their sustenance.

It was suggested by the commission, before leaving Fort Laramie, that it might become necessary, in consequence of the peculiar position of this nation, that a few of the principal chiefs visit Washington. Of this, however, I shall be more able to speak when the Indians arrive.

I shall keep you fully advised of the result of the conferences which I may have with these Indians.

If this is received by July 10, I doubt not a telegraphic communication to Fort Laramie, Dakota Territory, would reach me here before I leave. I forward this letter by an ox-train, the only method of communication between this point and Fort Laramie, at this time.

I have the honor to be, very respectfully, your obedient servant,

J. F. KINNEY,
Special Indian Commissioner.

Hon. N. G. TAYLOR,
Commissioner of Indian Affairs, Washington, D. C.

FORT LARAMIE, DAKOTA TERRITORY,
May 10, 1867.

At a meeting of the special Indian commission held at this post on the 7th instant, the following resolution was passed, and is now part of the records of the commission:

Resolved, That Judge J. F. Kinney do proceed to Fort Philip Kearney, or C. F. Smith, and visit the Mountain Crows, and such other Indians as may be ready to meet the commission in that region, and exercise all the authority of this commission in regard to said Indians, with authority to expend for presents for them, if satisfied of their friendship, a sum not exceeding three thousand dollars.

ALF. SULLY,
Brevet Brigadier General, President.

A true copy:

S. T. BULKLEY, *Secretary.*

No. 45.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., July 9, 1867.

Do not bring the Crows to the fort, but leave them in their own country on Tongue river. If driven from there by troops or Sioux, have them come to a railroad, or some place on the Missouri river, and this department will feed them. Upon your return, turn in all public property of this department to H. B. Denman, Omaha, and take receipt.

N. G. TAYLOR, *Commissioner.*

Hon. J. F. KINNEY,
Special Indian Commissioner, Fort Philip Kearney,
Care of G. P. Beauvais, Fort Laramie, D. T.

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MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

COMMUNICATING,

In compliance with a resolution of the Senate of the 3d instant, information in relation to orders, instructions, circular letters, or letters of advice issued to the respective military officers assigned to the command of the several military districts under the act passed March 2, 1867, entitled "An act to provide for the more efficient government of the rebel States," and the act supplementary thereto, passed March 28, 1867, and the opinions given by the Attorney General touching the construction and interpretation of said acts.

JULY 15, 1867.—Read; ordered to lie on the table and be printed.

To the Senate of the United States:

I transmit herewith reports from the Secretary of War and the Attorney General, containing the information called for by the resolution of the Senate of the 3d instant, requesting the President "to communicate to the Senate copies of all orders, instructions, circular letters, or letters of advice issued to the respective military officers assigned to the command of the several military districts, under the act passed March 2, 1867, entitled 'An act to provide for the more efficient government of the rebel States,' and the act supplementary thereto, passed March 23, 1867; also copies of all opinions given to him by the Attorney General of the United States, touching the construction and interpretation of said acts, and of all correspondence relating to the operation, construction, or execution of said acts that may have taken place between himself and any of said commanders, or between him and the General of the army, or between the latter and any of the said commanders, touching the same subjects; also copies of all orders issued by any of said commanders, in carrying out the provisions of said acts or either of them; also that he inform the Senate what progress has been made in the matter of registration under said acts, and whether the sum of money heretofore appropriated for carrying them out is probably sufficient."

In answer to that portion of the resolution which inquires whether the sum of money heretofore appropriated for carrying these acts into effect is probably sufficient, reference is made to the accompanying report of the Secretary of War. It will be seen from that report that the appropriation of five hundred thousand dollars, made in the act approved March 30, 1867, for the purpose of carrying into effect the "Act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the act supplementary thereto, passed March 23, 1867, has already been expended by the commanders of the several military districts, and that, in addition, the sum of $1,648,277 is required for present purposes.

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It is exceedingly difficult, at the present time, to estimate the probable expense of carrying into full effect the two acts of March last, and the bill which passed the two houses of Congress on the 13th instant. If the existing governments of ten States of the Union are to be deposed, and their entire machinery is to be placed under the exclusive control and authority of the respective district commanders, all the expenditures incident to the administration of such governments must necessarily be incurred by the federal government. It is believed that, in addition to the two million one hundred thousand dollars already expended or estimated for, the sum which would be required for this purpose would not be less than fourteen millions of dollars—the aggregate amount expended prior to the rebellion in the administration of their respective governments by the ten States embraced in the provisions of these acts. This sum would no doubt be considerably augmented if the machinery of these States is to be operated by the federal government, and would be largely increased if the United States, by abolishing the existing State governments, should become responsible for liabilities incurred by them before the rebellion in laudable efforts to develop their resources, and in nowise created for insurrectionary or revolutionary purposes. The debts of these States, thus legitimately incurred, when accurately ascertained, will, it is believed, approximate a hundred millions of dollars; and they are held not only by our own citizens, among whom are residents of portions of the country which have ever remained loyal to the Union, but by persons who are the subjects of foreign governments. It is worthy the consideration of Congress and the country, whether, if the federal government, by its action, were to assume such obligations, so large an addition to our public expenditures would not seriously impair the credit of the nation; or, on the other hand, whether the refusal of Congress to guarantee the payment of the debts of these States, after having displaced or abolished their State governments, would not be viewed as a violation of good faith, and a repudiation by the national legislature of liabilities which these States had justly and legally incurred.

ANDREW JOHNSON.

WASHINGTON, D. C., *July* 15, 1867.

WAR DEPARTMENT,
Washington City, July 11, 1867.

SIR: In answer to the Senate resolution referred to this department on the 5th instant, I have the honor to transmit herewith a report of the Adjutant General, accompanied by copies of the orders, instructions, circular letters, letters of advice, and correspondence called for by said resolution, so far as the same are on file or have been reported to this department.

Very respectfully, your obedient servant,

EDWIN M. STANTON,
Secretary of War.

The PRESIDENT.

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, July 9, 1867.

SIR: In compliance with your orders, I have the honor to submit herewith copies of all orders, instructions, circular letters, or letters of advice, issued to the respective military officers assigned to the command of the several military districts under the act passed March 2, 1867, entitled "An act to provide for the more efficient government of the rebel States," and the act supplementary thereto, passed March 23, 1867, and of all correspondence relating to the operation, construction, or execution of said acts that has taken place between the General of the army and any of the said commanders, touching the same subjects;

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also copies of all orders issued by any of said commanders in carrying out the provisions of said acts, or either of them, called for by Senate resolution dated July 3, 1867, so far as the said orders, instructions, circular letters, letters of advice, and correspondence, are on file or have been reported to this department.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
Assistant Adjutant General.

Hon. E. M. STANTON, *Secretary of War.*

[General Orders No. 10.]

GENERAL INSTRUCTIONS.

HEADQUARTERS OF THE ARMY, ADJUTANT GENERAL'S OFFICE,
Washington, March 11, 1867.

I. The following act of Congress is published for the information and government of all concerned:

[PUBLIC—No. 68.]

AN ACT to provide for the more efficient government of the rebel States.

Whereas no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States until loyal and republican State governments can be legally established: therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That said rebel States shall be divided into military districts and made subject to the military authority of the United States as hereinafter prescribed; and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina, the second district; Georgia, Alabama, and Florida, the third district; Mississippi and Arkansas, the fourth district; and Louisiana and Texas, the fifth district.

SEC. 2. *And be it further enacted,* That it shall be the duty of the President to assign to the command of each of said districts an officer of the army not below the rank of brigadier general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

SEC. 3. *And be it further enacted,* That it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals, and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose, and all interference, under color of State authority, with the exercise of military authority under this act, shall be null and void.

SEC. 4. *And be it further enacted,* That all persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted; and no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district; and the laws and regulations for the government of the army shall not be affected by this act, except in so far as they conflict with its provisions: *Pro-*

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vided, That no sentence of death, under the provisions of this act, shall be carried into effect without the approval of the President.

SEC. 5. *And be it further enacted*, That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion, or for felony at common law; and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates; and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates; and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same; and when said State, by a vote of its legislature elected under said constitution, shall have adopted the amendment to the Constitution of the United States proposed by the thirty-ninth Congress, and known as article fourteen; and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress, and senators and representatives shall be admitted therefrom on their taking the oath prescribed by law; and then and thereafter the preceding sections of this act shall be inoperative in said State: *Provided*, That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States shall be eligible to election as a member of the convention to frame a constitution for any of said rebel States, nor shall any such person vote for members of such convention.

SEC. 6. *And be it further enacted*, That until the people of said rebel States shall be by law admitted to representation in the Congress of the United States, any civil government which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same; and in all elections to any office under such provisional governments all persons shall be entitled to vote, and none others, who are entitled to vote under the fifth section of this act; and no person shall be eligible to any office under any such provisional governments who would be disqualified from holding office under the provisions of the third article of said constitutional amendment.

SCHUYLER COLFAX,
Speaker of the House of Representatives.
LAFAYETTE S. FOSTER,
President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES,
March 2, 1867.

The President of the United States having returned to the House of Representatives, in which it originated, the bill entitled "An act to provide for the more efficient government of the rebel States," with his objections thereto, the House of Representatives proceeded, in pursuance of the Constitution, to reconsider the same; and

Resolved, That the said bill do pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

EDWARD McPHERSON,
Clerk of the House of Representatives.

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IN SENATE OF THE UNITED STATES,
March 2, 1867.

The Senate having proceeded, in pursuance of the Constitution, to reconsider the bill entitled "An act to provide for the more efficient government of the rebel States," returned to the House of Representatives by the President of the United States, with his objections, and sent by the House of Representatives to the Senate, with the message of the President returning the bill—

Resolved, That the bill do pass, two-thirds of the Senate agreeing to pass the same.

Attest: J. W. FORNEY,
Secretary of the Senate.

II. In pursuance of the act of Congress entitled "An act to provide for the more efficient government of the rebel States," the President directs the following assignments to be made:

First district, State of Virginia, to be commanded by Brevet Major General J. M. Scofield. Headquarters, Richmond, Virginia.

Second district, consisting of North Carolina and South Carolina, to be commanded by Major General D. E. Sickles. Headquarters, Columbia, South Carolina.

* Third district, consisting of the States of Georgia, Florida, and Alabama, to be commanded by Major General G. H. Thomas. Headquarters, Montgomery, Alabama; changed to Atlanta, Georgia. General Orders 52.

Fourth district, consisting of the States of Mississippi and Arkansas, to be commanded by Brevet Major General E. O. C. Ord. Headquarters, Vicksburg, Mississippi.

Fifth district, consisting of the States of Louisiana and Texas, to be commanded by Major General P. H. Sheridan. Headquarters, New Orleans, Louisiana.

The powers of departmental commanders are hereby delegated to the above-named district commanders.

By command of General Grant:

E. D. TOWNSEND, *A. A General.*

Official:

E. D. TOWNSEND, *Ass't Adjutant General.*

[General Orders No. 18.]

HEADQUARTERS OF THE ARMY, ADJUTANT GENERAL'S OFFICE,
Washington, March 15, 1867.

The President directs that the following change be made, at the request of Major General Thomas, in the assignment announced in General Orders No. 10, of March 11, 1867, of commanders of districts, under the act of Congress entitled "An act to provide for the more efficient government of the rebel States," and of the department of the Cumberland, created in General Orders No. 14, of March 12, 1867:

Brevet Major General John Pope to command the third district, consisting of the States of Georgia, Florida, and Alabama; and Major General George H. Thomas to command the department of the Cumberland.

By command of General Grant:

E. D. TOWNSEND, *A A. General.*

Official:

E. D. TOWNSEND, *Ass't Adjutant General.*

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* Major General Pope assigned to command of third district, instead of Major General Thomas. General Order No. 18.

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[General Orders No. 33.]

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, March 28, 1867.

The following act of Congress is published for the information and government of all concerned:

[PUBLIC—No. 6.]

AN ACT supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March second, eighteen hundred and sixty-seven, and to facilitate restoration.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That before the first day of September, eighteen hundred and sixty-seven, the commanding general in each district defined by an act entitled "An act to provide for the more efficient government of the rebel States," passed March second, eighteen hundred and sixty-seven, shall cause a registration to be made of the male citizens of the United States, twenty-one years of age and upwards, resident in each county or parish in the State or States included in his district, which registration shall include only those persons who are qualified to vote for delegates by the act aforesaid, and who shall have taken and subscribed the following oath or affirmation: "I, ———, do solemnly swear, (or affirm,) in the presence of Almighty God, that I am a citizen of the State of ———; that I have resided in said State for —— months next preceding this day, and now reside in the county of ———, or the parish of ———, in said State, (as the case may be;) that I am twenty-one years old; that I have not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any State or of the United States; that I have never been a member of any State legislature nor held any executive or judicial office in any State, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterwards engaged in insurrection or rebellion against the United States or given aid or comfort to the enemies thereof; that I will faithfully support the Constitution and obey the laws of the United States, and will, to the best of my ability, encourage others so to do: so help me God;" which oath or affirmation may be administered by any registering officer.

SEC. 2. *And be it further enacted,* That after the completion of the registration hereby provided for in any State, at such time and places therein as the commanding general shall appoint and direct, of which at least thirty days' public notice shall be given, an election shall be held of delegates to a convention for the purpose of establishing a constitution and civil government for such State loyal to the Union, said convention in each State, except Virginia, to consist of the same number of members as the most numerous branch of the State legislature of such State in the year eighteen hundred and sixty, to be apportioned among the several districts, counties, or parishes of such State by the commanding general, giving each representation in the ratio of voters registered as aforesaid as nearly as may be. The convention in Virginia shall consist of the same number of members as represented the territory now constituting Virginia in the most numerous branch of the legislature of said State in the year eighteen hundred and sixty, to be apportioned as aforesaid.

SEC. 3. *And be it further enacted,* That at said election the registered voters of each State shall vote for or against a convention to form a constitution therefor under this act. Those voting in favor of such a convention shall have

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written or printed on the ballots by which they vote for delegates, as aforesaid, the words "For a convention," and those voting against such a convention shall have written or printed on such ballot the words "Against a convention." The persons appointed to superintend said election, and to make return of the votes given thereat, as herein provided, shall count and make return of the votes given for and against a convention; and the commanding general to whom the same shall have been returned shall ascertain and declare the total vote in each State for and against a convention. If a majority of the votes given on that question shall be for a convention, then such convention shall be held as hereinafter provided; but if a majority of said votes shall be against a convention, then no such convention shall be held under this act: *Provided*, That such convention shall not be held unless a majority of all such registered voters shall have voted on the question of holding such convention.

SEC. 4. *And be it further enacted*, That the commanding general of each district shall appoint as many boards of registration as may be necessary, consisting of three loyal officers or persons, to make and complete the registration, superintend the election, and make return to him of the votes, list of voters, and of the persons elected as delegates by a plurality of the votes cast at said election; and upon receiving said returns he shall open the same, ascertain the persons elected as delegates, according to the returns of the officers who conducted said election, and make proclamation thereof; and if a majority of the votes given on that question shall be for a convention, the commanding general, within sixty days from the date of election, shall notify the delegates to assemble in convention, at a time and place to be mentioned in the notification, and said convention, when organized, shall proceed to frame a constitution and civil government according to the provisions of this act, and the act to which it is supplementary; and when the same shall have been so framed, said constitution shall be submitted by the convention for ratification to the persons registered under the provisions of this act at an election to be conducted by the officers or persons appointed or to be appointed by the commanding general, as hereinbefore provided, and to be held after the expiration of thirty days from the date of notice thereof, to be given by said convention; and the returns thereof shall be made to the commanding general of the district.

SEC. 5. *And be it further enacted*, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the registered electors qualified as herein specified, cast at said election, at least one-half of all the registered voters voting upon the question of such ratification, the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling; and if it shall moreover appear to Congress that the election was one at which all the registered and qualified electors in the State had an opportunity to vote freely, and without restraint, fear, or the influence of fraud, and if the Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors in the State, and if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation, and senators and representatives shall be admitted therefrom as therein provided.

SEC. 6. *And be it further enacted*, That all elections in the States mentioned in the said "Act to provide for the more efficient government of the rebel States" shall, during the operation of said act, be by ballot; and all officers making the said registration of voters and conducting said elections shall, before entering upon the discharge of their duties, take and subscribe the oath prescribed by the act approved July second, eighteen hundred and sixty-two, entitled "An

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act to prescribe an oath of office:" *Provided*, That if any person shall knowingly and falsely take and subscribe any oath in this act prescribed, such person so offending and being thereof duly convicted shall be subject to the pains, penalties, and disabilities which by law are provided for the punishment of the crime of wilful and corrupt perjury.

SEC. 7. *And be it further enacted*, That all expenses incurred by the several commanding generals, or by virtue of any orders issued, or appointments made, by them, under or by virtue of this act, shall be paid out of any moneys in the treasury not otherwise appropriated.

SEC. 8. *And be it further enacted*, That the convention for each State shall prescribe the fees, salary, and compensation to be paid to all delegates and other officers and agents herein authorized or necessary to carry into effect the purposes of this act not herein otherwise provided for, and shall provide for the levy and collection of such taxes on the property in such State as may be necessary to pay the same.

SEC. 9. *And be it further enacted*, That the word "article," in the sixth section of the act to which this is supplementary, shall be construed to mean "section."

SCHUYLER COLFAX,
Speaker of the House of Representatives.
B. F. WADE,
President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES U. S.,
March 23, 1867.

The President of the United States having returned to the House of Representatives, in which it originated, the bill entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March second, eighteen hundred and sixty-seven, and to facilitate restoration," with his objections thereto, the House of Representatives proceeded, in pursuance of the Constitution, to reconsider the same; and

Resolved, That the said bill do pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

EDWD. McPHERSON,
Clerk House of Representatives U. S.

IN SENATE OF THE UNITED STATES,
March 23, 1867.

The Senate having proceeded, in pursuance of the Constitution, to reconsider the bill entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March second, eighteen hundred and sixty-seven, and to facilitate restoration," returned to the House of Representatives by the President of the United States, with his objections, and sent by the House of Representatives to the Senate, with the message of the President returning the bill:

Resolved, That the bill do pass, two-thirds of the Senate agreeing to pass the same.

Attest:

J. W. FORNEY,
Secretary.

By order of the Secretary of War:

E. D. TOWNSEND,
Assistant Adjutant General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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[General Orders No. 51.]

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, April 10, 1867.

Ordered, That the appropriation of five hundred thousand dollars by the joint resolution of Congress approved March 30, 1867, be disbursed under the direction of the Paymaster General, and that he assign an officer of his bureau, in each of the five military districts, to make such disbursements, under regulations to be prescribed by the Paymaster General and approved by the Secretary of War.

The following is the joint resolution of Congress above referred to:

[PUBLIC RESOLUTION—No. 32.]

JOINT RESOLUTION providing for the expenses of carrying into full effect an act entitled "An act to provide for the more efficient government of the rebel States."

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That sufficient money is hereby appropriated, out of any money in the treasury not otherwise appropriated, to defray the expenses of carrying into full effect in all parts an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, with all its supplementary acts: *Provided,* That the amount shall not exceed five hundred thousand dollars.

Approved March 30, 1867.

By order of the Secretary of War:

E. D. TOWNSEND,
Assistant Adjutant General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Orders No. 52.]

HEADQUARTERS OF THE ARMY, ADJUTANT GENERAL'S OFFICE,
Washington, April 11, 1867.

The headquarters of the third military district is hereby transferred from Montgomery, Alabama, to Atlanta, Georgia.

By command of General Grant:

E. D. TOWNSEND,
Assistant Adjutant General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, June 20, 1867.

Whereas several commanders of military districts, created by the acts of Congress known as the reconstruction acts, have expressed doubts as to the proper construction thereof, and in some respect to some of their powers and duties under said acts, and have applied to the Executive for information in relation thereto;

And whereas the said acts of Congress have been referred to the Attorney General for his opinion thereon, and the said acts and the opinion of the Attorney General have been fully and carefully considered by the President in conference with the heads of the respective departments, the President accepts the following as a practical interpretation of the aforesaid acts of Congress on the points therein presented, and directs the same to be transmitted to the respect-

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ive military commanders for their information, in order that there may be uniformity in the execution of said acts:

1. The oath prescribed in the supplemental act defines all the qualifications required, and every person who can take that oath is entitled to have his name entered upon the list of voters.

2. The board of registration have no authority to administer any other oath to the person applying for registration than this prescribed oath; nor to administer any oath to any other person, touching the qualifications of the applicant, or the falsity of the oath so taken by him. The act to guard against falsity in the oath provides that, if false, the person taking it shall be tried and punished for perjury.

No provision is made for challenging the qualifications of the applicant, or entering upon any trial or investigation of his qualifications, either by witnesses or any other form of proof.

3. As to citizenship and residence.

The applicant for registration must be a citizen of the State and of the United States, and must be a resident of a county or parish included in the election district. He may be registered if he has been such citizen for a period less than twelve months at the time he applies for registration, but he cannot vote at any election unless his citizenship has then extended to the full term of one year. As to such a person the exact length of his citizenship should be noted opposite his name on the list, so that it may appear on the day of election, upon reference to the list, whether the full term has then been accomplished.

4. An unnaturalized person cannot take his oath, but an alien who has been naturalized can take it, and no other proof of naturalization can be required from him.

5. No one who is not twenty-one years of age at the time of registration can take the oath, for he must swear that he has then attained that age.

6. No one who has been disfranchised for participation in any rebellion against the United States, or for felony committed against the laws of any State or of the United States, can take this oath.

The actual participation in a rebellion, or the actual commission of a felony, does not amount to disfranchisement. The sort of disfranchisement here meant is that which is declared by law passed by competent authority, or which has been fixed upon the criminal by the sentence of the court which tried him for the crime.

No law of the United States has declared the penalty of disfranchisement for participation in rebellion alone. Nor is it known that any such law exists in either of these ten States, except perhaps Virginia, as to which State special instructions will be given.

7. As to disfranchisement arising from having held office, followed by participation in rebellion.

This is the most important part of the oath, and requires strict attention to arrive at its meaning. The applicant must swear or affirm as follows:

"That I have never been a member of any State legislature, nor held any executive or judicial office in any State, and afterwards engaged in an insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof."

Two elements must concur in order to disqualify a person under these clauses: *First*, the office and official oath to support the Constitution of the United

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States; *second*, engaging afterwards in rebellion. Both must exist to work disqualification, and must happen in the order of time mentioned.

A person who has held an office and taken the oath to support the federal Constitution, and has not afterwards engaged in rebellion, is not disqualified. So, too, a person who has engaged in rebellion, but has not theretofore held an office and taken that oath, is not disqualified.

8. Officers of the United States.

As to these the language is without limitation. The person who has at any time prior to the rebellion held any office, civil or military, under the United States, and has taken an official oath to support the Constitution of the United States, is subject to disqualification.

9. Militia officers of any State, prior to the rebellion, are not subject to disqualification.

10. Municipal officers, that is to say, officers of incorporated cities, towns and villages, such as mayors, aldermen, town council, police, and other city or town officers, are not subject to disqualification.

11. Persons who have, prior to the rebellion, been members of the Congress of the United States, or members of a State legislature, are subject to disqualification. But those who have been members of conventions framing or amending the constitution of a State, prior to the rebellion, are not subject to disqualification.

12. All the executive or judicial officers of any State who took an oath to support the Constitution of the United States are subject to disqualification, including county officers. They are subject to disqualification if they were required to take, as a part of their official oath, the oath to support the Constitution of the United States.

13. Persons who exercised mere employment under State authority are not disqualified; such as commissioners to lay out roads, commissioners of public works, visitors of State institutions, directors of State institutions, examiners of banks, notaries public, and commissioners to take acknowledgments of deeds.

ENGAGING IN REBELLION.

Having specified what offices held by any one prior to the rebellion come within the meaning of the law, it is necessary next to set forth what subsequent conduct fixes upon such person the offence of engaging in rebellion. Two things must exist as to any person to disqualify him from voting: first, the office held prior to the rebellion, and afterwards, participation in the rebellion.

14. An act to fix upon a person the offence of engaging in rebellion under this law must be an overt and voluntary act, done with the intent of aiding or furthering the common unlawful purpose. A person forced into the rebel service by conscription, or under a paramount authority which he could not safely disobey, and who would not have entered such service if left to the free exercise of his own will, cannot be held to be disqualified from voting.

15. Mere acts of charity, where the intent is to relieve the wants of the object of such charity, and not done in aid of the cause in which he may have been engaged, do not disqualify. But organized contributions of food and clothing for the general relief of persons engaged in the rebellion, and not of a merely sanitary character, but contributed to enable them to perform their unlawful object, may be classed with acts which do disqualify.

Forced contributions to the rebel cause in the form of taxes or military assessments, which a person was compelled to pay or contribute, do not disqualify. But voluntary contributions to the rebel cause, even such indirect contributions as arise from the voluntary loan of money to rebel authorities, or purchase of bonds or securities created to afford the means of carrying on the rebellion, will work disqualification.

16. All those who, in legislative or other official capacity, were engaged in

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the furtherance of the common unlawful purpose, where the duties of the office necessarily had relation to the support of the rebellion, such as members of the rebel conventions, congresses, and legislatures, diplomatic agents of the rebel confederacy, and other officials whose offices were created for the purpose of more effectually carrying on hostilities, or whose duties appertained to the support of the rebel cause, must be held to be disqualified.

But officers who, during the rebellion, discharged official duties not incident to war, but only such duties as belong even to a state of peace, and were necessary to the preservation of order and the administration of law, are not to be considered as thereby engaging in rebellion or as disqualified. Disloyal sentiments, opinions, or sympathies would not disqualify, but where a person has, by speech or by writing, incited others to engage in rebellion, he must come under the disqualification.

17. The duties of the board appointed to superintend the elections.

This board, having the custody of the list of registered voters in the district for which it is constituted, must see that the name of the person offering to vote is found upon the registration list, and if such proves to be the fact, it is the duty of the board to receive his vote, if then qualified by residence. They cannot receive the vote of any person whose name is not upon the list, though he may be ready to take the registration oath, and although he may satisfy them that he was unable to have his name registered at the proper time, in consequence of absence, sickness, or other cause.

The board cannot enter into any inquiry as to the qualifications of any person whose name is not on the registration list, or as to the qualifications of any person whose name is on the list.

18. *The mode of voting* is provided in the act to be *by ballot.* The board will keep a record and poll-book of the election, showing the votes, list of voters, and the persons elected by a plurality of the votes cast at the election, and make returns of these to the commanding general of the district.

19. The board appointed for registration, and for superintending the elections, must take the oath prescribed by the act of Congress approved July 2, 1862, entitled "An act to prescribe an oath of office."

By order of the President:

E. D. TOWNSEND,
Assistant Adjutant General.

WASHINGTON, *April* 15, 1867.

SIR: I have the honor to recommend that the Secretary of the Interior be requested to furnish, for the information and guidance of the commanding generals of the five military districts, copies of the census report of the southern States for 1860; also the rates and manner of payment of persons employed to take the census throughout the United States.

Very respectfully, your obedient servant,

U. S. GRANT, *General.*

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Hon. E. M. STANTON, *Secretary of War.*

HEADQUARTERS ARMIES OF THE UNITED STATES,
Washington, May 11, 1867.

The estimates for funds to carry out the act of Congress "for the more efficient government of the rebel States," being in excess of the amount appropriated by Congress, district commanders are informed that the Paymaster

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General will inform them of the amount each can receive from the present appropriation.

Any expense incurred beyond the present appropriation cannot be paid until Congress supplies the means.

By command of General Grant:

GEORGE K. LEET,
Assistant Adjutant General.

General J. M. SCHOFIELD, *Commanding First Military District.*
General D. E. SICKLES, *Commanding Second Military District.*
General JOHN POPE, *Commanding Third Military District.*
General E. O. C. ORD, *Commanding Fourth Military District.*
General P. H. SHERIDAN, *Commanding Fifth Military District.*

Official:

E. D. TOWNSEND, *Assistant Adjutant General.*

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

[Circular.]

WASHINGTON, *May* 22, 1867.

The following is sent to district commanders for their guidance:

"WAR DEPARTMENT,
" *Washington City, May* 18, 1867.

"GENERAL: Recent occurrences in some of the military districts indicate a necessity of great vigilance, on the part of military commanders, to be prepared for the prevention and prompt suppression of riots and breaches of the public peace, especially in towns and cities, and that they should have their forces in hand and so posted, on all occasions where disturbances may be apprehended, as to promptly check, and, if possible, to prevent outbreaks and violence, endangering public or individual safety.

"You will please, therefore, call the attention of the commanders of military districts to this subject, and issue such precautionary orders as may be found necessary for the purpose indicated.

"Yours truly,

"EDWIN M. STANTON,
" *Secretary of War.*

"General U. S. GRANT,
" *Commanding Armies of the United States.*"

The above conveys all the instructions deemed necessary, and will be acted upon by district commanders, making special reports of the precautionary orders issued by them to prevent a recurrence of mobs or other unlawful violence.

By command of General Grant:

GEORGE K. LEET,
Assistant Adjutant General.

General J. M. SCHOFIELD, *Commanding First Military District.*
General D. E. SICKLES, *Commanding Second Military District.*
General JOHN POPE, *Commanding Third Military District.*
General E. O. C. ORD, *Commanding Fourth Military District.*
General P. H. SHERIDAN, *Commanding Fifth Military District.*

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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FIRST DISTRICT.

WASHINGTON, *June* 3, 1867.

GENERAL: Your letter of the 2d instant, enclosing copy of general orders on the subject of registration which you propose to publish as supplemental to General Orders No. 28, of May 13, 1867, and asking for suggestions in relation to said orders, is received.

The order seems to me very full and complete, and I think of nothing to add to it. In the 4th paragraph you enumerate the classes who are to be excluded from registration, if they have engaged in giving aid and comfort to rebellion as described in the then following paragraphs. I am not prepared to express an opinion as to the correctness of this enumeration, without looking, as I have no doubt you have done, at the laws of Virginia, to see what the special duties are of the State officers. Paragraph 9 gives, in my opinion, proper directions to boards of registration for their action, where they feel a doubt as to the right of an applicant to register, if any direction is to be given on the subject. But a doubt arises in my mind, whether it would not be better to let the board settle the question of the right to register, under the other instructions contained in your orders, without any guide but their own judgment in doubtful cases.

Very respectfully, your obedient servant,

U. S. GRANT, *General.*

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Brevet Major General J. M. SCHOFIELD,
Commanding First District.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., May 14, 1867.

[From Richmond, Va., May 14, 1867—12.30 p. m.]

General U. S. GRANT:

Jefferson Davis was yesterday brought before the United States circuit court, discharged from military custody and released upon bail. He left the city and started north this morning. The most perfect order and the utmost good feeling have prevailed throughout the city during the proceedings of the court, and since the release of the prisoner. The troubles which occurred a few days ago were only a temporary ebullition, easily suppressed. The excitement is rapidly passing away.

J. M. SCHOFIELD, *Major General.*

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

WASHINGTON, *May* 6, 1867.

GENERAL: Your letter of the 22d of April, enclosing copy of regulations for the registration of voters in your command, was received during my absence from

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the city, and either from my neglect, or that of some one else, I have only just read them. The order is without number and without date, from which I infer you are waiting to hear whether there are any suggestions to offer before publishing it. I hasten therefore at this apparently late date to reply.

The order seems to me to meet every point, and to be good. I asked the Secretary of War to know whether he had any suggestions to offer. He said that he had read the order, and found nothing to suggest in relation to it.

Very respectfully, your obedient servant,

U. S. GRANT, *General.*

Brevet Major General J. M. SCHOFIELD,
Commanding First District.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, March 22, 1867.

GENERAL: I have the honor to request from the Attorney General of the United States an official interpretation of section 3 of the proposed constitutional amendment, entitled article XIV.

The questions involved are, the meaning of the words "executive or judicial officer of any State." What officers are to be considered the executive and judicial officers of the State of Virginia? And of the words "shall have engaged in insurrection or rebellion against the same, (the United States,) or given aid and comfort to the enemies thereof." Of what acts must persons have been guilty to cause them to come within the meaning of this clause?

In the execution of the act of Congress of March 2, 1867, and the act supplementary thereto, questions will arise, in many individual cases, which it is important to be able to answer by reference to a general interpretation of the law from the recognized legal authority, and I respectfully request that the answer of the Attorney General to this request may be so full, if practicable, as to cover all cases.

I am, general, very respectfully, your obedient servant,

J. M. SCHOFIELD,
Brevet Major General U. S. Army, Commanding.

ADJUTANT GENERAL U. S. ARMY,
Washington, D. C.

ADJUTANT GENERAL'S OFFICE, *March* 26, 1867.

Respectfully submitted to the Secretary of War.

E. D. TOWNSEND,
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 6, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

MARCH 28, 1867.

Respectfully referred to the President for his directions.

E. M. STANTON, *Secretary of War.*

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[Telegram.]

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, March 28, 1867.

Lieutenant GEORGE R. BUFFUM,
Assistant Superintendent Bureau R., F. & A. L.,
Halifax Court House, Va., via South Boston, Va.:

The election for sheriff, ordered to be held in Mecklenburg county, Virginia, April 6, 1867, is hereby suspended until further orders.

Lieutenant George R. Buffum, assistant superintendent Bureau Refugees, Freedmen, and Abandoned Lands, at Halifax Court House, will furnish an official copy of this order to Sheriff S. R. Johnson and to the clerk of the county court. Copy by mail.

By command of Major General Schofield:

S. F. CHALFIN,
Assistant Adjutant General.

Telegraph operator at South Boston will please forward this telegram by courier to Lieutenant Buffum, who will pay the courier.

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, March 29, 1867.

Official copy respectfully furnished the General-in-chief of the army.

S. F. CHALFIN,
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE,
Washington, July 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, April 4, 1867.

GENERAL: I have the honor to request to be furnished with an official copy of the proposed constitutional amendment, (Article XIV.)

Very respectfully, your obedient servant,

J. M. SCHOFIELD,
Major General Commanding.

ADJUTANT GENERAL U. S. ARMY,
Washington, D. C.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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ADJUTANT GENERAL'S OFFICE,
Washington, April 5, 1867.

GENERAL: Agreeably to the request contained in your letter of the 4th instant, I enclose herewith an official copy of the proposed constitutional amendment, (article XIV.)

Very respectfully, your obedient servant,

E. D. TOWNSEND,
Assistant Adjutant General.

Brevet Major General J. M. SCHOFIELD,
Commanding First Military District.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

MEMORANDUM.

[PUBLIC RESOLUTION—No. 48.]

JOINT RESOLUTION proposing an amendment to the Constitution of the United States.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of both houses concurring,) That the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of said legislatures, shall be valid as part of the Constitution, namely:

ARTICLE XIV.

SEC. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SEC. 3. No person shall be a senator or representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof; but Congress may by a vote of two-thirds of each house remove such disability.

SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services

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in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

SCHUYLER COLFAX,
Speaker of the House of Representatives.
LA FAYETTE S. FOSTER,
President of the Senate pro tempore.

Attest:
EDW. MCPHERSON,
Clerk of the House of Representatives.
J. W. FORNEY,
Secretary of the Senate.

Received at Department of State June 16, 1866.

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, March 16, 1867.

GENTLEMEN: In reply to your communication of the 14th instant, relative to the recent municipal election in Alexandria, I am directed by General Schofield to inform you that, as speedily as practicable, the necessary preparations will be made to carry out the provisions of the act of Congress of March 2, 1867, concerning the elective franchise and qualifications for office under the provisional government of the State.

As soon as the necessary preparations shall be perfected proper steps will be taken to remedy the error complained of in the late election at Alexandria.

I am, gentlemen, very respectfully, your obedient servant,
S. F. CHALFIN, *Assistant Adjutant General.*

Hon. JOHN C. UNDERWOOD and OTHERS,
Alexandria, Virginia.

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, March 18, 1867.

Official copy respectfully furnished the General-in-chief of the army.
S. F. CHALFIN, *Assistant Adjutant General.*

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 8, 1867.

Official:

Assistant Adjutant General.

[Special Orders No. 4.—Extract.]

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, March 16, 1867.

* * * * * * *

6. The municipal election in the city of Fredericksburg, which the charter of that city directs to be held on Monday, the eighteenth (18th) instant, is hereby ordered to be suspended until the necessary preparations can be made to fully

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and fairly execute the provisions of the act of Congress of March second, (2d,) 1867, concerning the elective franchise and qualifications for office.

7. Major James Johnson, Veteran Reserve Corps, Superintendent Bureau of Refugees, Freedmen, and Abandoned Lands, at Fredericksburg, will furnish an official copy of this order to the mayor of the city, and one to each of the civil officers whose duties in connection with the city election are suspended by this order.

By command of Brigadier and Brevet Major General J. M. Schofield, United States army.

S. F. CHALFIN, *Assistant Adjutant General.*

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, March 18, 1867.

Official copy respectfully furnished the General-in-chief of the army.

S. F. CHALFIN, *Assistant Adjutant General.*

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 8, 1867.

Official:

Assistant Adjutant General.

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia. March 16, 1867.

COLONEL: I am directed by the major general commanding to propound to you the following questions, and to request a prompt reply to each:

What officers are to be elected at Lynchburg on the first Tuesday in April?

What objection, if any, to postponing the election for a few weeks?

Does the city charter provide that officers shall hold over until their successors are elected and qualified?

What financial question is submitted to the voters at the election?

What evil would result from postponing the vote on such question?

Is it not important before election to have a registration for the purpose of determining who are enfranchised and who disfranchised?

I am, colonel, very respectfully, your obedient servant,

S. F. CHALFIN, *Assistant Adjutant General.*

Colonel O. B. WILCOX,
29th U. S. Inf'y, Comd'g Dist. of Lynchburg, Lynchburg, Va.

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, March 18, 1867.

Official copy respectfully furnished the General-in-chief of the army.

S. F. CHALFIN, *Assistant Adjutant General.*

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 8, 1867.

Official:

E. D. TOWNSEND, *A. A. General.*

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

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HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, April 22, 1867.

GENERAL: I send you herewith a copy of my proposed regulations for the registration of voters, and will be glad of any suggestions that may occur to you or to the Secretary of War.

I intend to add instructions concerning disfranchisement, based upon the opinion of the Attorney General, when that opinion is received.

I am, general, very respectfully, your obedient servant,

J. M. SCHOFIELD,
Brevet Major General.

General U. S. GRANT,
Commanding U. S. Armies, Washington, D. C.

HEADQUARTERS ARMIES UNITED STATES,
April 23, 1867.

Respectfully forwarded to the Secretary of War.

JOHN A RAWLINS,
Chief of Staff, (in absence of the General-in-chief.)

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Orders No. —.]

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, ———, 1867.

The following regulations are prescribed for the registration of voters, as required by the act of Congress of March 23, 1867:

1. Two or more registering officers will be appointed for each county and city, according to its size, and one for each magisterial district or ward.

2. Two of the officers appointed for the county or city will, together with the one appointed for a district or ward, constitute the board of registration for that district or ward, and will thus successively register the voters of all the districts or wards of the county or city.

3. The president of each board, who will be designated in his letter of appointment, will determine the order in which the several districts or wards assigned to his board shall be registered, the time to be allotted to each, and will instruct the registering officer of each district or ward to publish, accordingly, the notices hereinafter required, and to make the necessary preparations for the meeting of the board in his district or ward.

4. The president of the board will also designate the place of registration in each district or ward, which will be selected with reference to the general convenience of voters.

5. There shall be one place of registration, and only one, in each magisterial district or ward, where all the qualified voters, residents of the district or ward, shall be registered.

6. It shall be the duty of the registering officer of each district or ward to register the voters of that district or ward, keep the records, prepare the required reports to the commanding general, and to do such other ministerial duty as may be ordered by the board or by the president thereof. But all questions of the right of persons to be registered must be decided by the full board.

7. The board of registration shall, in each district or ward, in five of the most public places therein, cause written or printed notices to be posted, which notices shall designate the time and place when and where the registration will

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be held, the number of days the board will be in session for the purpose of registration, and the length of time each day, and inviting all persons qualified to vote under the provisions of the act of Congress of March 2, 1867, entitled "An act to provide for the more efficient government of the rebel States," and the act supplementary thereto, passed March 23, 1867, to appear before the board for registration.

8. These notices shall be posted at least ten days before the commencement of the registration in the district or ward in which they are posted.

9. Persons shall vote only in the district or ward where they are registered.

10. On the day and at the time named in the notices hereinbefore mentioned, the board of registration for the district or ward shall meet at the place designated in such notice, and, having taken the prescribed oath, enter upon their duties.

11. The room in which the registration is to be made shall be so arranged that the board of registration, and persons admitted as challengers and witnesses, shall be separated from those to be registered; no one being permitted within the enclosure, in addition to those named, except the person to be registered or examined for registration. The persons to be registered being admitted one by one; and their entry and egress to be so arranged as to avoid confusion.

12. For the purpose of securing a just registration, and to prevent the registration of any person not entitled to vote under the provisions of the said act of Congress of March 2, 1867, or the act supplementary thereto, three white and three colored persons, voters of the district, shall be selected by the board who shall be allowed to remain with the board, and who shall have the privilege, and whose duty it shall be, as well as that of each member of the board, to challenge the right of any person to be registered who, in the opinion of the person challenging, is disqualified as a voter by reason of any of the causes set forth in said acts of Congress. Upon such challenge being made, the board shall examine the person presenting himself for registration, in reference to each cause of disqualification mentioned in said act and the act supplementary thereto. Evidence shall also be heard, if offered, to substantiate the cause of challenge, or to rebut that offered in support of it.

13. In registering the voters, the names of the whites and colored persons registered shall be entered in separate columns of the list kept for that purpose, which lists, after the registration shall have been completed, shall be alphabetically arranged, the names of the white and colored voters still being kept in separate columns. Three separate lists shall be kept. The first shall contain the names of all voters who shall be registered without challenge, after taking the prescribed oath set forth in the first section of the supplement to the aforesaid act; the second those who may be registered after challenge is made, and the third those who may be rejected upon challenge.

14. Opposite the name of each person challenged, whether registered as entitled to vote or not, the cause of challenge will be clearly stated, and also the facts relating thereto as developed by the examination of the board.

15. The board shall sit, at the place designated in the notices hereinbefore mentioned, at least eight hours each day for not less than three consecutive days, (Sundays excepted,) as set forth in said notice, to register the names of all persons in said district who are qualified to vote under the provisions of the act and of the act supplementary thereto hereinbefore mentioned. It is expected that all persons entitled to be registered, and who are not prevented by sickness or other unavoidable cause, will present themselves for registration at this session of the board.

16. Upon the completion of the registration the board shall forward to the commanding general copies of the lists required to be kept, certified in the following form:

We do certify, on honor, that the above is a correct list of the persons (regis-

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tered as voters without challenge,) (registered as voters after challenge and examination,) or (rejected upon challenge,) *(as the case may be,)* in the ——— district (or ward,) county (or city) of ———, State of Virginia.

A ——— B ———,
President of Board.
C ——— D ———,
Registering Officer of the County, (or city.)
E ——— F ———,
Registering Officer of the District (or ward.)

They shall also cause copies of the lists to be posted in three of the most public places of the district or ward.

17. Two weeks or more after the registration has been completed, and after ten days' public notice, the board shall reconvene at the place of registration for the correction of the published lists, at which time additional evidence may be heard in reference to the cases of those rejected upon challenge at the previous registration, when those thus rejected may be registered, if the evidence warrants it.

18. The name of any one registered after or without challenge may be stricken from the roll, if a cause of disqualification is then established.

19. The names of such persons may be registered, as established by satisfactory proof of the fact of their inability, by reason of sickness, or other unavoidable cause, to attend the registration previously made.

20. The names of all persons in the three separate corrected lists shall, after the session of the board, be entered separately and alphabetically in a book prepared for the purpose, in which the names of the white and colored voters shall be kept separate, for convenience of reference at the ensuing election, and a copy of the list of such register, certified as required by paragraph 16, shall then be forwarded to the commanding general.

21. The registration shall be conclusive as to the right to vote of those whose names appear upon the list of voters. And no person whose name does not appear upon this list shall be allowed to vote at the ensuing election.

22. Boards of registration shall have power to summon witnesses and compel their attendance in any case of contested registration, and the power to suppress disorder and preserve the peace at and in the vicinity of the place of registration, For these purposes they may call upon the local civil authorities, or the nearest commander of troops, for such aid as may be necessary, or they may, at their discretion, summon a special police force for the purpose.

23. Any person who shall knowingly and wilfully violate any of the provisions of these regulations, or who shall, by violence or intimidation, prevent, or endeavor to prevent, the registration of any voter, shall, upon conviction thereof, be punished by fine and imprisonment, at the discretion of a military commission.

RULES FOR MAKING OUT ACCOUNTS.

24. All authorized accounts incurred under or by virtue of the act of Congress of March 23, 1867, shall be forwarded to Major T. H. Stanton, paymaster first military district, Richmond, Virginia.

25. Vouchers to accounts for reimbursement for expenses incurred must be supported by the properly receipted original bills of expenditure, made out in duplicate as sub-vouchers. When it is impossible to obtain receipts to sub-vouchers, the claimant, if an officer, must certify; if a civilian, must make affidavit before a civil magistrate or notary public, where practicable, that the amounts claimed for reimbursement were actually and necessarily expended by him in the public service, and that it was impossible to obtain sub-vouchers therefor.

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26. The certificates to vouchers for expenditures incurred by a board of registration must be signed by the president of the board.

27. Each voucher must be complete in itself, and be accompanied by all orders and explanations necessary to make it fully understood. And all orders, sub-vouchers, or explanations, must be made in duplicate and filed with the vouchers.

28. Vouchers for expenditures must state the date and place, the items and amount, to whom, for what purpose, and the number and names of the persons for whom the expenditure was made. Vouchers for services rendered must also specify the commencement and end of the period for which the expense was incurred, and must *state whether both days are inclusive.*

29. Vouchers *must, in all cases,* be accompanied by the receipt of the party to whom payment is made. No account will be paid by the disbursing officer unless correctly made out, and the receipts properly signed.

30. The expenses which may properly be incurred by the boards of registration are as follows:

1. For the preparations necessary for carrying out the instructions of paragraph 11.

2. Purchase of necessary stationery for boards.

3. Printing the posters required by paragraph 7; printing the ballots required by section 3, act of March 23, 1867; printing the authorized lists of registered voters as required by paragraph 16; and other printing previously authorized by the commanding general.

4. For postage.

31. No other expenditures than those above mentioned shall be incurred without the previous sanction of the general commanding.

32. Registering officers appointed from civil life, for counties or cities, will be paid at the rate of $125 per month; those for magisterial districts or wards of cities, at the rate of $5 per diem, for the time they are actually employed.

33. All registering officers will be allowed ten cents mileage from their places of residence to their stations, and, returning, from their stations to the places of residence. After joining their respective stations, registering officers will be allowed, by way of reimbursement, the actual, necessary, and reasonable expenses of their transportation, while travelling on public duty connected with their office, within their respective counties or districts.

34. Blanks will be furnished registering officers, upon their requisition, from the office of the paymaster of this military district.

Form used for civil appointments.

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Va., ——— —, 1867.

——— ——— is hereby appointed ———, State of Virginia, to fill the vacancy caused by the ——— of ——— ———, and is empowered to perform all the duties of the said office, according to law, until his successor shall be duly elected and qualified.

Before entering on the duties of his office, he will file in the office of the county clerk of said county the oath and bond required by the laws of the State, and the oath prescribed in General Orders No. 9, of April 5, 1867, from these headquarters.

——— ———,
Brevet Major General U. S. A. Commanding

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HEADQUARTERS FIRST MILITARY DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, June 27, 1867.

GENERAL: I have the honor to enclose, herewith, a list of the civil appointments which have been made by me in this military district. Each appointment has been reported to the governor of Virginia, who has thereupon issued his commission according to the laws of the State.

Very respectfully, your obedient servant,

J. M. SCHOFIELD,
Brevet Major General U. S. A. Commanding.

General U. S. GRANT,
Commanding the Armies of the United States.

Official:

E. D. TOWNSEND, *A. A. General.*

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

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List of appointments of civil officers made by Brevet Major General J. M. Schofield, U. S. A., commanding first military district.

Name.	Office.	Magisterial district.	County.	Date of appointment.	Remarks.
James T. McClaugherty	Commissioner of the revenue	Second	Giles	April 23, 1867	Vice John M. McClaugherty, deceased.
Horatio P. Hancock	Justice of the peace	Sixth	Louisa	April 26, 1867	Vice Peyton G. Talley, resigned.
Goodrich Durfey	Alderman, city of Williamsburg			do	To fill a vacancy.
A. J. Kirby	Justice of the peace		Floyd	April 29, 1867	Vice Hervey Derkins, resigned.
J. Milton Gouldon	do	First	Caroline	May 1, 1867	Vice Thomas R. Dew, removed from the district.
Travis Bagby	do	do	do	do	Vice Robert S. Broaddus, removed from the district.
James A. Watson	do	do	Prince Edward	May 8, 1867	Vice H. E. Warren, removed from the district.
Dr. Milton Y. Heiskell	Mayor of the town of Abingdon		Washington	May 11, 1867	Vice George R. Dunn, resigned.
C. W. Harvey	Commissioner of the revenue	First	Charlotte	do	Vice Thomas Pugh, deceased.
Elkanah Fawcett	Justice of the peace	Seventh	Frederick	May 13, 1867	To fill a vacancy.
Josiah Lockhart	do	First	do	do	Do.
Wm. M. Payton	Constable	Seventh	Rockbridge	do	Vice N. B. McCluer, resigned.
Charles W. Sullivan	do	First	Montgomery	May 20, 1867	To fill a vacancy.
Marion Clingenpeel	do	Fourth	do	do	Do.
William A. Butler	do	Second	Nansemond	do	Vice John R. Deuden, resigned.
James P. Charlters	Justice of the peace	Third	Spottsylvania	do	Vice Leroy W. Dobyns, resigned.
Alfred S. Halladay	do	Second	do	do	Vice John C. Pettus, removed from the district.
James M. Stone	Constable	Third	Henry	May 21, 1867	To fill a vacancy.
Thomas H. King	do	First	do	do	Do.
Thomas J. King	do	Sixth	do	do	Do.
Benjamin Barrow	Justice of the peace	Second	do	do	Vice Peter R. Rearney, resigned.
David T. Harvey	Member of the council of the town of Danville		Pittsylvania	May 22, 1867	Vice Thomas D. Neal, resigned.
Isaac J. Edwards	Commissioner of the revenue for St. George's parish		Accomac	May 25, 1867	To fill a vacancy.
Benjamin McCollough	Overseer of the poor	Third	Montgomery	do	Do.
Lewis Ellison	Justice of the peace	First	James City	May 27, 1867	Vice William D. Wynne, removed from the district.
John Leetch	do	Third	Madison	May 30, 1867	Vice N. W. Crisher, removed from the district.
Theodore P. Caperhaver	Deputy sheriff		Smyth	do	To fill a vacancy.
Francis M. Kersler	Constable	First	Boutetourt	June 7, 1867	Vice Thomas M. McClure, resigned.
Edward T. Pilkinton	Overseer of the poor	do	Chesterfield	do	Vice Joseph Butler, removed from the county.
Fyner G. Finch	Constable	Fifth	Mecklenburg	June 11, 1867	To fill a vacancy.
William C. Hagen	Surveyor		Montgomery	June 12, 1867	Vice Miles Francis, jr., resigned.
John T. Dillard	Overseer of the poor	Second	Nelson	do	Vice Thomas G. Graves, removed from the district.
John D. King	Constable	First	Westmoreland	June 14, 1867	To fill a vacancy.
William S. Waddy	do	Second	Northampton	June 18, 1867	Do.
Pleasant C. Larus	Justice of the peace	do	Henrico	June 19, 1867	Vice George W. Thomas, resigned.
A. S. Storrs	do	Third	do	do	Vice S. G. Waldrop, deceased.
Charles E. Troutman	do	do	New Kent	June 25, 1867	Vice John C. Apperson, deceased.
Thomas W. Sydnor	do	Fourth	do	do	Vice Leonard C. Crump, removed from the district.
Charles E. Campbell	do	Third	Washington	do	To fill a vacancy.
Robert J. Smith	Constable	Second	Prince Edward	June 26, 1867	Vice Charles B. Anderson, resigned.

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General orders from headquarters first military district, 1867.

[General Orders No. 1.]

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, March 13, 1867.

I. In compliance with the order of the President, the undersigned hereby assumes command of the first district, State of Virginia, under the act of Congress of March 2, 1867.

II. All officers under the existing provisional government of the State of Virginia will continue to perform the duties of their respective offices, according to law, unless otherwise hereafter ordered in individual cases, until their successors shall be duly elected and qualified in accordance with the above-named act of Congress.

III. It is desirable that the military power conferred by the before-mentioned act be exercised only so far as may be necessary to accomplish the objects for which that power was conferred, and the undersigned appeals to the people of Virginia, and especially to magistrates and other civil officers, to render the necessity for the exercise of this power as slight as possible, by strict obedience to the laws, and by impartial administration of justice to all classes.

IV. The staff officers now on duty at headquarters department of the Potomac, are assigned to corresponding duties at headquarters first district, State of Virginia.

J. M. SCHOFIELD,
Brevet Major General U. S. A.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Orders No. 2.]

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, March 15, 1867.

I. The following extract of an act of Congress is republished for the information and government of all concerned:

[PUBLIC—No. 85.]

AN ACT making appropriations for the support of the army for the year ending June thirtieth, eighteen hundred and sixty-eight, and for other purposes.

* * * * * * *

SEC. 5. *And be it further enacted,* That it shall be the duty of the officers of the army and navy and of the Freedmen's Bureau to prohibit and prevent whipping or maiming of the person as a punishment for any crime, misdemeanor or offence by any pretended civil or military authority in any State lately in rebellion until the civil government of such State shall have been restored, and shall have been recognized by the Congress of the United States.

* * * * * * *

Approved March 2, 1867.

II. In pursuance of the provisions of the 5th section of the act as above cited, whipping or maiming of the person, as a punishment of any crime, misdemeanor, or offence, is hereby prohibited in this district.

By command of Brigadier and Brevet Major General J. M. Schofield, United States Army:

S. F. CHALFIN,
Assistant Adjutant General.

Official:

E. D. TOWNSEND.
Assistant Adjutant General.

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[General Orders No. 4.]

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, March 18, 1867.

The State of West Virginia, having, by paragraph II, General Orders No 14, dated Headquarters of the Army, March 12, 1867, been transferred to the department of the Cumberland, the commanding officer of company K, twenty-ninth United States infantry, stationed at Union, Monroe county, West Virginia, will report, by letter, to Brevet Major General John Pope, commanding department of the Cumberland, Louisville, Kentucky.

By command of Brigadier and Brevet Major General J. M. Schofield, United States Army:

S. F. CHALFIN,
Assistant Adjutant General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Orders No. 8.]

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, April 2, 1867.

All elections, whether State, county, or municipal, under the provisional government of Virginia, are hereby ordered to be suspended until the registration provided for by the act of Congress of March 23, 1867, shall be completed.

Vacancies which may occur in the mean time, will befilled by temporary appointments, to be made by the commanding general.

By command of Brigadier and Brevet Major General J. M. Schofield United States Army:

S. F. CHALFIN,
Assistant Adjutant General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Orders No. 9.]

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, April 5, 1867.

In pursuance of the acts of Congress of March 2 and 23, 1867, all officers hereafter to be elected or appointed under the provisional government of Virginia will, in addition to the oath of office prescribed by the laws of the State, be required to take and subscribe the following oath:

I, ———, do solemnly ———, in the presenceofAlmighty God, that I have not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any State, or of the United States; that I have never been a member of any State legislature, nor held any executive or judicial office in any State, and afterward engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterwards engaged in insurrection or rebellion against the United States, or given aid and comfort to

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the enemies thereof; that I will faithfully support the Constitution, and obey the laws of the United States, and will, to the best of my ability, encourage others so to do: so help me God.

By command of Brigadier and Brevet Major General J. M. Schofield, United States Army:

S. F. CHALFIN,
Assistant Adjutant General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Orders No. 15.]

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, April 20, 1867.

The following list of appointments, as registering officers, is published for information of all concerned:

Brevet Lieutenant Colonel George H. Higbee, captain 11th United States infantry, president of the board for Accomac county.

Captain W. L. Tidball, Veteran Reserve Corps, president of the board for Albemarle county.

Captain S. P. Lee, 45th United States infantry, president of the board for Alexandria county.

First Lieutenant W. A. Cameron, 5th United States artillery, president of the board for Alleghany county.

Second Lieutenant J. B. Clinton, Veteran Reserve Corps, president of the board for Amelia county.

Second Lieutenant William V. Richards, 11th United States infantry, president of the board for Amherst county.

Second Lieutenant L. W. Stevenson, Veteran Reserve Corps, president of the board for Appomattox county.

Mr. Thomas P. Jackson, president of the board for Augusta county.

Brevet Lieutenant Colonel T. M. Anderson, captain 21st United States infantry, president of the board for Bath county.

Brevet Captain B. F. Shaum, second lieutenant Veteran Reserve Corps, president of the board for Bedford county.

Mr. J. W. Smith, president of the board for Bland county.

Second Lieutenant Francis J. Dunn, 11th United States infantry, president of the board for Botetourt county.

First Lieutenant F. M. Kimball, Veteran Reserve Corps, president of the board for Brunswick county.

Mr. R. T. Stoops, president of the board for Buchanan county.

Mr. P. A. Davis, president of the board for Buckingham county.

Mr. R. S. Lacey, president of the board for Campbell county.

Captain John O'Dwyer, Veteran Reserve Corps, president of the board for Caroline county.

Brevet Captain Samuel Peeples, first lieutenant 5th United States artillery, president of the board for Carroll county.

Mr. Samuel S. Anable, president of the board for Charles City county.

Brevet Lieutenant Colonel Joshua S. Fletcher, captain 11th United States infantry, president of the board for Charlotte county.

Mr. A. Davidson, president of the board for Chesterfield county.

Brevet Major James K. Lawrence, captain 29th United States infantry, president of the board for Clarke county.

First Lieutenant J. L. Johnston, 21st United States infantry, president of the board for Craig county.

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Brevet Captain W. A. McNulty, second lieutenant Veteran Reserve Corps, president of the board for Culpeper county.

Brevet First Lieutenant S. A. Day, second lieutenant 5th United States artillery, president of the board for Cumberland county.

Mr. John Burke, president of the board for Dinwiddie county.

Mr. O. M. Dorman, president of the board for Elizabeth City county.

the board for Essex county.

Second Lieutenant W. R. Wentworth, Veteran Reserve Corps, president of

Second Lieutenant W. Shields, Veteran Reserve Corps, president of the board for Fairfax county.

Second Lieutenant W. S. Chase, Veteran Reserve Corps, president of the board for Fauquier county.

Brevet Colonel F. L. Guenther, captain 5th United States artillery, president of the board for Floyd county.

Brevet Captain E. S. Huntington, first lieutenant 29th United States infantry, president of the board for Fluvanna county.

First Lieutenant W. F. DeKnight, Veteran Reserve Corps, president of the board for Franklin county.

Captain G. R. Chandler, Veteran Reserve Corps, president of the board for Frederick county.

Brevet Captain Madison Earle, first lieutenant 21st United States infantry, president of the board for Giles county.

Brevet Lieutenant Colonel H. L. Chipman, captain 29th United States infantry, president of the board for Gloucester county.

Brevet Captain J. F. Wilson, second lieutenant Veteran Reserve Corps, president of the board for Goochland county.

Mr. Thomas J. Elam, president of the board for Grayson county.

Second Lieutenant William Hoffman, 29th United States infantry, president of the board for Greenville county.

Second Lieutenant William H. Vinal, 11th United States infantry, president of the board for Green county.

Second Lieutenant George R. Buffum, Veteran Reserve Corps, president of the board for Halifax county.

Brevet Colonel Ira Ayer, jr., captain Veteran Reserve Corps, president of the board for Hanover county.

First Lieutenant Henry C. Ward, 11th United States infantry, president of the board for Henrico county.

Second Lieutenant W. L. Fernald, Veteran Reserve Corps, president of the board for Henry county.

Mr. C. B. Fessenden, president of the board for Highland county.

Brevet Colonel H. A. Hambright, captain 29th United States infantry, president of the board for Isle of Wight county.

First Lieutenant E. A. Chandler, Veteran Reserve Corps, president of the board for James City county.

Second Lieutenant Thomas E. Merritt, 29th United States infantry, president of the board for King George county.

Second Lieutenant S. K. Mahon, 11th United States infantry, president of the board for King and Queen county.

Mr. F. A. Butts, president of the board for King William county.

Brevet Major H. R. Putnam, captain 21st United States infantry, president of the board for Lancaster county.

Mr. Henry C. Josylin, president of the board for Lee county.

First Lieutenant S. B. Smith, Veteran Reserve Corps, president for Loudon county.

Brevet Major M. S. Hopkins, first lieutenant Veteran Reserve Corps, president of the board for Louisa county.

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Brevet Captain J. A. Fessenden, first lieutenant 5th United States artillery, president of the board for Lunenburg county.

Captain S. W. Carpenter, Veteran Reserve Corps, president of the board for Madison county.

Mr. Frank K. Smith, president of the board for Matthews county.

Mr. Alexander D. Bailie, president of the board for Mechlenburg county.

Mr. A. A. Abbott, president of the board for Middlesex county.

Brevet Captain C. S. Schaeffer, first lieutenant Veteran Reserve Corps, president of the board for Montgomery county.

Mr. John W. Barnes, president of the board for Nansemond county.

Mr. Charles E. Dibble, president of the board for Nelson county.

Captain N. M. Brooks, Veteran Reserve Corps, president of the board for New Kent county.

First Lieutenant E. Murphy, Veteran Reserve Corps, president of the board for Norfolk county.

Captain George P. Sherwood, Veteran Reserve Corps, president of the board for Northampton county.

Second Lieutenant E. W. Busby, Veteran Reserve Corps, president of the board for Northumberland county.

Brevet Captain D. J. Connolly, second lieutenant Veteran Reserve Corps, president of the board for Nottoway county.

Brevet Major W. R. Morse, captain Veteran Reserve Corps, president of the board for Orange county.

Mr. Robert Breckinridge, president of the board for Page county.

Mr. W. H. Stowell, president of the board for Patrick county.

Brevet Colonel G. B. Carse, captain Veteran Reserve Corps, president of the board for Pittsylvania county.

Mr. George W. West, president of the board for Powhatan county.

Brevet Lieutenant Colonel John W. Jordan, captain Veteran Reserve Corps, president of the board for Prince Edward county.

Captain J. W. Piper, 5th United States artillery, president of the board for Prince George county.

Mr. H. W. Cunningham, president of the board for Prince William county.

Second Lieutenant Morton Havens, Veteran Reserve Corps, president of the board for Princess Anne county.

Brevet Major Eugene Carter, captain 29th United States infantry, president of the board for Pulaski county.

Second Lieutenant R. G. Heiner, 29th United States infantry, president of the board for Rappahannock county.

Second Lieutenant H. K. W. Ayers, Veteran Reserve Corps, president of the board for Richmond county.

Brevet Lieutenant Colonel H. B. Reed, first lieutenant 5th United States artillery, president of the board for Rockingham county.

Second Lieutenant Hiram L. Hunt, Veteran Reserve Corps, president of the board for Roanoke county.

Captain J. W. Sharp, Veteran Reserve Corps, president of the board for Rockbridge county.

Brevet Lieutenant Colonel Thomas S. Dunn, captain 21st United States infantry, president of the board for Russell county.

Mr. H. L Hartshorn, president of the board for Scott county.

Brevet First Lieutenant J. T. H. Hall, second lieutenant Veteran Reserve Corps, president of the board for Shenandoah county.

Second Lieutenant W. S. Mackay, 29th United States infantry, president of the board for Smythe county.

Second Lieutenant A. J. Deacon, Veteran Reserve Corps, president of the board for Southampton county.

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Brevet Lieutenant Colonel James Johnson, major Veteran Reserve Corps, president of the board for Spottsylvania county.

Second Lieutenant Hector Sears, Veteran Reserve Corps, president of the board for Stafford county.

Captain I. F. Wilcox, Veteran Reserve Corps, president of the board for Sussex county.

Mr. James Curry, president of the board for Surry county.

Mr. Samuel K. James, president of the board for Tazewell county.

Mr. F. A. Morey, president of the board for Warwick county.

Captain E. H. Ripley, Veteran Reserve Corps, president of the board for Warren county.

Captain John O. O'Neil, Veteran Reserve Corps, president of the board for Washington county.

First Lieutenant W. N. Sage, 29th United States infantry, president of the board for Westmoreland county.

Mr. S. S. Reeder, president of the board for Wise county.

Captain W. P. Austin, Veteran Reserve Corps, president of the board for Wythe county.

Brevet Captain F. J. Massey, first lieutenant Veteran Reserve Corps, president of the board for York county.

Captain Thomas E. Rose, 11th United States infantry, president of the board for Richmond city.

Major D. Woodruff, 21st United States infantry, president of the board for Petersburg city.

Major Lyman Bissell, 29th United States infantry, president of the board for Norfolk city.

By command of Brigadier and Brevet Major General J. M. Schofield, United States Army:

S. F. CHALFIN,
Assistant Adjutant General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Orders No. 16.]

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, April 20, 1867.

1. Temporary appointments to fill vacancies which may occur in county or city offices will, in general, be made upon the concurrent recommendations of the county court or city council and of the president of the board of registration for the county or city.

2. The several county courts and city councils are requested to confer with the presidents of the boards of registration concerning such appointments, and to agree upon a suitable person to fill any vacancy that may occur.

3. The president of the board of registration will forward to the assistant adjutant general the recommendation of the court or council with his own indorsement thereon.

4. When a county court is not in session, a recommendation signed by five justices, including the presiding justice, will be received in lieu of the recommendation of the court.

5. County and corporation officers appointed by the commanding general will be required to give the bonds required by law, and will be subject to indict-

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ment for malfeasance, misfeasance, or neglect of official duty, the same as if they had been elected by the people.

By command of Brigadier and Brevet Major General J. M. Schofield, United States Army:

S. F. CHALFIN,
Assistant Adjutant General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Orders No. 28.]

HEADQUARTERS FIRST MILITARY DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, May 13, 1867.

The following regulations are prescribed for the registration of voters as required by the act of Congress of March 23, 1867:

1. Two or more registering officers will be appointed for each county and city, according to its size, and one for each magisterial district or ward.

2. One principal board of registration, and as many assistant boards as may be convenient, each to consist of three officers, will be organized in each county or city by the president of the board, under instructions heretofore issued from these headquarters.

3. The president of the board, for the county or city, will apportion the districts or wards among the principal and assistant boards, determine the order in which the several districts or wards assigned to each board shall be registered, the time to be allotted to each, and will instruct the registering officer of each district or ward to publish, accordingly, the notices hereinafter required, and to make the necessary preparations for the meeting of the board in his district or ward.

4. The president of the board will also designate the place of registration in each district or ward, which will be selected with reference to the general convenience of voters.

5. There shall be one place of registration, and only one, in each magisterial district or ward, where all the qualified voters, residents of the district or ward, shall be registered.

6. It shall be the duty of the registering officer of each district or ward to register the voters of that district or ward, keep the records, prepare the required reports to the commanding general, and to do such other ministerial duty as may be ordered by the board or by the president thereof. But all questions of the right of persons to be registered must be decided by the full board.

7. The board of registration shall, in each district or ward, in five of the most public places therein, cause written or printed notices to be posted, which notices shall designate the time and place when and where the registration will be held, the number of days the board will be in session for the purpose of registration and the length of time each day, and inviting all persons qualified to vote under the provisions of the act of Congress of March 2, 1867, entitled "An act to provide for the more efficient government of the rebel States," and the act supplementary thereto, passed March 23, 1867, to appear before the board for registration.

8. These notices shall be posted at least ten days before the commencement of the registration in the district or ward in which they are posted.

9. Persons shall vote only in the district or ward where they are registered.

10. On the day and at the time named in the notices hereinbefore mentioned, the board of registration for the district or ward shall meet at the place designated in such notice, and having taken the prescribed oath, enter upon their duties.

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11. The room in which the registration is to be made shall be so arranged that the board of registration, and persons admitted as challengers and witnesses, shall be separated from those to be registered; no one being permitted within the enclosure, in addition to those named, except the person to be registered, or examined for registration; the persons to be registered being admitted one by one, and their entry and egress to be so arranged as to avoid confusion.

12. For the purpose of securing a just registration, and to prevent the registration of any person not entitled to vote under the provisions of the said act of Congress of March 2, 1867, or the act supplementary thereto—three white and three colored persons, voters of the district, shall be selected by the board, who shall be allowed to remain with the board, and who shall have the privilege, and whose duty it shall be, as well as that of each member of the board, to challenge the right of any person to be registered, who, in the opinion of the person challenging, is disqualified as a voter by reason of any of the causes set forth in said acts of Congress. Upon such challenge being made, the board shall examine the person presenting himself for registration, in reference to each cause of disqualification mentioned in said act and the act supplementary thereto. Evidence shall also be heard, if offered, to substantiate the cause of challenge, or to rebut that offered in support of it.

13. In registering the voters the names of the whites and colored persons registered shall be entered in separate columns of the list kept for that purpose, which lists, after the registration shall have been completed, shall be alphabetically arranged, the names of the white and colored voters still being kept in separate columns. Three separate lists shall be kept. The first shall contain the names of all voters who shall be registered without challenge, after taking the prescribed oath set forth in the first section of the supplement to the aforesaid act; the second, those who may be registered after challenge made; and the third, those who may be rejected upon challenge.

14. Opposite the name of each person challenged, whether registered as entitled to vote or not, the cause of challenge will be clearly stated, and also the facts relating thereto, as developed by the examination of the board.

15. The board shall sit, at the place designated in the notices hereinbefore mentioned, at least eight hours each day for not less than three consecutive days, (Sundays excepted,) as set forth in said notice, to register the names of all persons in said district who are qualified to vote under the provisions of the act, and of the act supplementary thereto, hereinbefore mentioned. It is expected that all persons entitled to be registered, and who are not prevented by sickness or other unavoidable cause, will present themselves for registration at this session of the board.

16. Upon the completion of the registration, the board shall forward to the commanding general copies of the lists required to be kept, certified in the following form:

We do certify on honor that the above is a correct list of the persons (registered as voters without challenge,) (registered as voters after challenge and examination,) or (rejected upon challenge,) *(as the case may be,)* in the ——— district (or ward,) county (or city,) of ———, State of Virginia.

A—— B——, *President of Board.*
C—— D——, *Registering Officer of the County (or city.)*
E—— F——, *Registering Officer of the District (or ward.)*

They shall also cause copies of the lists to be posted in three of the most public places of the district or ward.

17. Two weeks or more after the registration has been completed, and after ten days' public notice, the board shall reconvene at the place of registration, for the correction of the published lists, at which time additional evidence may

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be heard in reference to the cases of those rejected upon challenge at the previous registration, when those thus rejected may be registered if the evidence warrants it.

18. The name of any one registered after or without challenge may be stricken from the roll if a cause of disqualification is then established.

19. The names of such persons may be registered as establish, by satisfactory proof, the fact of their inability, by reason of sickness or other unavoidable cause, to attend the registration previously made.

20. The names of all persons in the three separate corrected lists shall, after the second session of the board, be entered separately and alphabetically in a book prepared for the purpose, in which the names of the white and colored voters shall be kept separate for convenience of reference at the ensuing election, and a copy of the list of such register, certified as required by paragraph 16, shall then be forwarded to the commanding general.

21. Boards of registration shall have power to summon witnesses, and compel their attendance, in any case of contested registration, and the power to suppress disorder and preserve the peace at and in the vicinity of the place of registration. For these purposes they may call upon the local civil authorities, or the nearest commander of troops, for such aid as may be necessary; or they may, at their discretion, summon a special police force for the purpose.

22. Any person who shall knowingly and wilfully violate any of the provisions of these regulations, or who shall, by violence or intimidation, prevent or endeavor to prevent the registration of any voter, shall, upon conviction thereof, be punished by fine and imprisonment, at the discretion of a military commission.

RULES FOR MAKING OUT ACCOUNTS.

23. All authorized accounts incurred under or by virtue of the act of Congress of March 23, 1867, shall be forwarded to Major T. H. Stanton, paymaster first military district, Richmond, Virginia.

24. Vouchers to accounts for reimbursement for expenses incurred, must be supported by the properly receipted original bills of expenditure, made out in duplicate as sub-vouchers. When it is impossible to obtain receipts to sub-vouchers, the claimant, if an officer, must certify; if a civilian, must make affidavit before a civil magistrate or notary public, where practicable, that the amounts claimed for reimbursement were actually and necessarily expended by him in the public service, and that it was impossible to obtain sub-vouchers therefor.

25. The certificates to vouchers for expenditures incurred by a board of registration must be signed by the president of the board.

26. Each voucher must be complete in itself, and be accompanied by all orders and explanations necessary to make it fully understood. And all orders, sub-vouchers, or explanations must be made in duplicate and filed with the vouchers.

27. Vouchers for expenditures must state the date and place, the items and amount, to whom, for what purpose, and the number and name of the persons for whom the expenditure was made. Vouchers for services rendered must also specify the commencement and end of the period for which the expense was incurred, and must state whether both days are inclusive.

28. Vouchers must in all cases be accompanied by the receipt of the party to whom payment is made. No account will be paid by the disbursing officer unless correctly made out, and the receipts properly signed.

29. The expenses which may properly be incurred by the boards of registration are as follows:

1. For the preparations necessary for carrying out the instructions of paragraph 11.

2. Purchase of necessary stationery for boards.

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3. Printing the posters required by paragraph 7; printing the authorized lists of registered voters as required by paragraph 16; and other printing previously authorized by the commanding general.

4. For postage.

30. No other expenditures than those above mentioned shall be incurred without the previous sanction of the general commanding.

31. Registering officers, appointed from civil life, for counties or cities, will be paid at the rate of $125 per month; those for magisterial districts, or wards of cities, at the rate of $5 per diem, for the time they are actually employed.

32. All registering officers will be allowed ten cents mileage from their places of residence to their stations, and returning from their stations to their places of residence. After joining their respective station, registering officers will be allowed, by way of reimbursement, the actual, necessary, and reasonable expenses of their transportation, whilst travelling on public duty connected with their office, within their respective counties or districts.

BOOKS AND BLANKS.

33. Blank vouchers will be furnished registering officers, upon their requisition, from the office of the paymaster of the military district.

34. Blank oaths for voters, and the blank-books referred to in paragraph 20, will be furnished from this office on the requisition of registering officers.

35. The registration will not be commenced until further instructions are issued from these headquarters.

By command of Brigadier and Brevet Major General J. M. Schofield, United States army:

S. F. CHALFIN,
Assistant Adjutant General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General, A. D. C.

[General Orders No. 31.]

HEADQUARTERS FIRST MILITARY DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, May 28, 1867.

For the purpose of giving adequate protection to all persons in their rights of persons and property, in cases where the civil authorities may fail, from whatever cause, to give such protection, and to insure the prompt suppression of insurrection, disorder, and violence, military commissioners, to be selected from the officers of the army and of the Freedmen's Bureau, will be appointed and given jurisdiction over sub-districts, to be defined in the orders appointing them, with sufficient military force to execute, or secure the execution of, their orders.

For the purpose of suppressing insurrection, disorder, or violence, the military commissioners are given command of the police of cities and the power of counties, in addition to the troops that may be placed at their disposal; and all police officers, sheriffs, constables, and other persons, are required, in such cases, to obey and execute the orders of the military commissioners.

For the purpose of protecting individuals in their rights of person and property, and of bringing offenders to justice, the military commissioners are clothed with all the powers of justices of a county or police magistrates of a city, and will be governed in the discharge of their duties by the laws of Virginia, so far as the same are not in conflict with the laws of the United States or orders issued from these headquarters.

The military commissioners will make a prompt report to these headquarters of each case of which they may take jurisdiction, and the disposition made of

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such case. Where parties are held for trial, either in confinement or under bail, such full statement will be made of the facts in each case as will enable the commanding general to decide whether the case shall be tried by a military commission or be brought before a civil court.

Trial by the civil courts will be preferred in all cases where there is satisfactory reason to believe that justice will be done. But until the orders of the commanding general are known in any case, the paramount jurisdiction assumed by the military commissioner will be exclusive.

All persons, civil officers, and others, are required to obey and execute the lawful orders of the military commissioners to the same extent as they are required by law to obey and execute writs issued by the civil magistrates. Any person who shall disobey or resist the lawful orders or authority of a military commissioner shall be tried by a military commission, and upon conviction shall be punished by fine and imprisonment, according to the nature and degree of the offence.

This order will not be construed to excuse civil officers, in any degree, from the faithful discharge of their duties. It is intended to aid the civil authorities, and not to supersede them, except in cases of necessity.

By command of Brigadier and Brevet Major General J. M. Schofield, United States Army:

S. F. CHALFIN,
Assistant Adjutant General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Orders No. 33.]

HEADQUARTERS FIRST MILITARY DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, June 3, 1867.

1. The district of Lynchburg, the district of Petersburg, and the district of Fort Monroe will hereafter be denominated sub-districts.

2. Brevet Major General R. S. Granger, lieutenant colonel eleventh United States infantry, is hereby assigned to the command of the sub-district of Richmond, to embrace the city of Richmond and the counties of Henrico, Chesterfield, Hanover, King William, New Kent, Charles City, Goochland, Louisa, Fluvanna and Albemarle; headquarters at Camp Grant, Richmond, Virginia.

3. Brevet Lieutenant Colonel Walter S. Franklin, captain twenty-first United States infantry, is hereby assigned to the command of the sub-district of Winchester, to embrace all the counties of Virginia lying in the valley of the Shenandoah; headquarters at Winchester, Virginia.

4. Major J. Stewart, fourth United States artillery, is hereby assigned to the command of the sub-district of Alexandria, to embrace the city and county of Alexandria and the counties of Fairfax, Loudon, Fauquier, and Prince William; headquarters at Alexandria, Virginia.

5. Brevet Lieutenant Colonel James Johnson, major Veteran Reserve Corps, is hereby assigned to the command of the sub-district of Fredericksburg, to embrace all the counties of Virginia not included in any one of the above-named sub-districts; headquarters at Fredericksburg, Virginia.

6. The sub-district commanders are hereby appointed military commissioners, under General Orders No. 31, of May 28, 1867, from these headquarters, for the sub-districts under their respective commands. They will exercise a general supervision over the subordinate military commissioners within their sub-districts, and will furnish them, when necessary, sufficient military force to enable them to discharge their duties.

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7. The commissioned officers of the Freedmen's Bureau on duty in this military district are hereby appointed military commissioners for the several counties under their jurisdiction, and will report accordingly, by letter, to the proper sub-district commanders.

By command of Brigadier and Brevet Major General J. M. Schofield, United States army:

S. F. CHALFIN,
Assistant Adjutant General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Orders No. 34.]

HEADQUARTERS FIRST MILITARY DISTRICT, STATE OF VIRGINIA.
Richmond, Virginia, June 3, 1867.

The following instructions for the government of boards of registration are published as an appendix to the regulations prescribed in General Orders No. 28, of May 13, 1867.

1. All male citizens of the United States, twenty-one years of age, and upward, of whatever race, color, or previous condition, who have been resident in the State for one year, except such as may be disfranchised for participation in the rebellion, or for felony, are entitled to be registered as voters, upon their taking and subscribing the oath or affirmation prescribed by the act of Congress of March 23, 1867.

2. All those who were at any time members of Congress, or officers of the United States, civil or military, and as such officers took an oath to support the Constitution of the United States, and all who were at any time members of any State legislature, or executive or judicial officers of any State, and afterwards engaged in insurrection or rebellion against the United States, or gave aid or comfort to the enemies thereof; and all who have been convicted of felony against the laws of any State or of the United States, are disfranchised.

3. No one is disfranchised for participation in rebellion, unless he *previously* held some one of the offices above named.

4. The following will be regarded as executive and judicial officers of the State of Virginia, within the meaning of the law, viz: governor, lieutenant governor, secretary of state, auditor of public accounts, second auditor, register of the land office, State treasurer, attorney general, judges of the supreme court of appeals, judges of the circuit courts, judge of the court of hustings, justices of the county courts, mayor, recorder and aldermen of any city or incorporated town, who are *ex officio* justices, coroners of towns and counties, escheators, inspectors of tobacco, flour, and other commodities.

5. All persons who voluntarily joined the rebel army, and all persons in that army, whether volunteers or conscripts, who committed *voluntarily* any hostile act, thereby engaging in insurrection or rebellion. Any person, however, who was forced into the rebel army, but avoided, as far as possible, doing hostile acts, and escaped from that army as soon as possible, cannot be said to have engaged in the rebellion.

6. All who exercised the functions of any office under the confederate government, or the government of any one of the Confederate States, which functions were of a nature to aid in prosecuting the war, or maintaining the hostile character of those governments, and all who voted for the ordinance of secession, engaged in the rebellion, or gave aid and comfort to the enemy.

7. Those who *voluntarily* furnished supplies of food, clothing, arms, ammunition, horses or mules, or any other material of war, or labor, or service of any

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kind, to the confederate military or naval forces, or money, by loan or otherwise, to the confederate government, or aided in any way the raising, organization, or equipment of troops, gave aid and comfort to the enemy, and participated in the rebellion and civil war against the United States.

8. To give individual soldiers food or clothing enough to relieve present suffering, or to minister to the sick or wounded, are simple acts of charity or humanity, and do not constitute giving "aid or comfort to the enemy." A parent may give his son who belongs to the hostile army food and clothing for his own use; but if he give him a gun, horse, or other thing, to be used for hostile purposes, he thereby gives aid and comfort to the enemy.

9. Whenever, after the examination required by paragraph 12 of the regulations of May 13, the board is still in doubt as to the right of the appplicant to be registered as a voter, and he is then willing to take the prescribed oath, the board will give to that oath its full weight and register the applicant as a voter.

10. In the lists of those who are "registered after challenge and examination," and those who are "rejected upon challenge," the board will state in each case what office, or offices, the person held previous to the late war, and what insurrectionary or rebellious acts he committed, and what kind of aid or comfort he gave to those engaged in insurrection or rebellion.

11. The challengers provided for in paragraph 12 of the regulations of May 13 will be selected by the board from the most respectable and intelligent voters of the district or ward, those who have the most extended acquaintance with the people, those who are in favor of securing a fair and just registration, and who will be most likely to detect and expose any attempt at fraudulent registration. The challengers may be changed at any time at the discretion of the board; they will not be entitled to any pay for their services.

12. Boards of registration will adhere strictly to the regulations published for their government, and will spare no pains to secure a just and fair registration according to these instructions. If any who are entered upon the lists as rejected by the board, after challenge and examination, still believe they are entitled to vote, and are willing to take the prescribed oath, that oath will be administered, (if it has not already been taken by the applicant,) and the fact of his having taken the oath will be recorded opposite his name on the register. Much diligence will be required, especially in cities, on the part of members of the board and challengers, to prevent fraudulent registration of persons who are disqualified from non-residence, minority, or felony.

13. Registering officers are hereby empowered to administer oaths to witnesses who may be summoned by the board in any case of contested registration.

The registration will be commenced in every county and city without unnecessary delay after the receipt of this order.

By command of Brigadier and Brevet Major General J. M. Schofield, United States army:

S. F. CHALFIN,
Assistant Adjutant General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Circular No. 4.]

HEADQUARTERS FIRST MILITARY DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, June 23, 1867.

The following list of military commissioners, appointed under General Orders No. 31, of May 28, and No. 33, of June 3, 1867, is published for the information and guidance of all concerned:

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SUB-DISTRICT OF RICHMOND.

Brevet Major General R. S. Granger, United States army, lieutenant colonel eleventh United States infantry, military commissioner, commanding: headquarters, Richmond.

Second Lieutenant Paul R. Hambrick, forty-fifth United States infantry, military commissioner for the city of Richmond—station, Richmond.

Brevet Captain B. C. Cook, second lieutenant Veteran Reserve Corps, military commissioner for Henrico and Chesterfield counties—station, Richmond.

Brevet Captain J. F. Wilson, second lieutenant Veteran Reserve Corps, military commissioner, Goochland and Fluvana counties—station, Goochland Court House, Goochland county.

Second Lieutenant S. F. Higgs, Veteran Reserve Corps, military commissioner, Albemarle county—station, Charlottesville, Albemarle county.

Captain N. M. Brooks, Veteran Reserve Corps, military commissioner, New Kent and Charles City counties—station, New Kent Court House, New Kent county.

Brevet Colonel Ira Ayer, jr., captain Veteran Reserve Corps, military commissioner for Hanover and King William counties—station, Ashland, Virginia, Hanover county.

SUB-DISTRICT OF FORT MONROE.

Brevet Lieutenant Colonel George Gibson, jr., United States army, captain eleventh United States infantry, military commissioner, commanding; headquarters, Fort Monroe.

Brevet Major J. H. Remington, captain Veteran Reserve Corps, military commissioner, Norfolk city and county—station, Norfolk.

First Lieutenant Ed. Murphy, Veteran Reserve Corps, military commissioner, Nansemond and Isle of Wight counties—station, Norfolk city.

Second Lieutenant Morton Havens, Veteran Reserve Corps, military commissioner, Princess Anne county—station, Princess Anne Court House, Princess Anne county.

Second Lieutenant A. G. Deacon, Veteran Reserve Corps, military commissioner, Southampton county—station, Jerusalem, Southampton county.

First Lieutenant M. S. Reed, Veteran Reserve Corps, military commissioner, Elizabeth City and Warwick counties—station, Fort Monroe, Elizabeth City county.

Brevet Captain F. J. Massey, first lieutenant Veteran Reserve Corps, military commissioner, York, Matthews, and Gloucester counties—station, Yorktown, York county.

First Lieutenant E. A. Chandler, Veteran Reserve Corps, military commissioner, James City county—station, Williamsburg, James City county.

First Lieutenant George P. Sherwood, forty-second United States infantry, military commissioner, Accomac and Northampton counties—station, Drummondtown, Accomac county.

SUB-DISTRICT OF PETERSBURG.

Brevet Major General George Stoneman, United States army, colonel twenty-first United States infantry, military commissioner, commanding; headquarters, Prospect Station, Prince Edward county.

Brevet Major J. R. Stone, captain Veteran Reserve Corps, military commissioner, city of Petersburg, Dinwiddie and Prince George counties—station, Petersburg.

Captain I. F. Wilcox, Veteran Reserve Corps, military commissioner, Sussex and Surry counties—station, Waverly station, Sussex county.

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First Lieutenant F. M. Kimball, Veteran Reserve Corps, military commissioner, Brunswick and Greenville counties—station, Lawrenceville, Brunswick county.

Brevet Captain D. J. Connolly, second lieutenant Veteran Reserve Corps, military commissioner, Nottaway and Lunenburg counties—station, Burkesville, Nottaway county.

Second Lieutenant J. B Clinton, Veteran Reserve Corps, military commissioner, Amelia and Powhatan counties—station, Amelia Court House, Amelia county.

Brevet Lieutenant Colonel John W. Jordan, captain Veteran Reserve Corps, military commissioner, Prince Edward, Buckingham, Cumberland, and Charlotte counties—station, Farmville, Prince Edward county.

Second Lieutenant George R. Buffum, Veteran Reserve Corps, military commissioner, Halifax and Mecklenburg counties—station, Halifax Court House, Halifax county.

SUB-DISTRICT OF LYNCHBURG.

Brevet Major General O. B. Wilcox, United States army, colonel twenty-ninth United States infantry, military commissioner, commanding; headquarters, Lynchburg.

Captain W. P. Austin, Veteran Reserve Corps, military commissioner, Wythe, Grayson, Carroll, Smythe, Bland, and Tazewell counties—station, Wytheville, Wythe county.

Captain John O. O'Neil, Veteran Reserve Corps, military commissioner, Washington, Russell, Buchanan, Scott, Wise, and Lee counties—station, Abingdon, Washington county.

Brevet Captain C. S. Scheaffer, first lieutenant Veteran Reserve Corps, military commissioner, Montgomery, Pulaski, and Giles counties—station, Christiansburg, Montgomery county.

Second Lieutenant Hiram L Hunt, Veteran Reserve Corps, military commissioner, Roanoke, Craig, and Floyd counties—station, Salem, Roanoke county.

Second Lieutenant L. W. Stevenson, Veteran Reserve Corps, military commissioner, Campbell, Nelson, Appomattox, and Amherst counties—station, Lynchburg, Campbell county.

Brevet Colonel G. B. Carse, captain Veteran Reserve Corps, military commissioner, Pittsylvania county—station, Danville, Pittsylvania county.

Second Lieutenant W. L. Fernald, Veteran Reserve Corps, military commissioner, Henry and Patrick counties—station, Martinsville, Henry county.

First Lieutenant W. F. DeKnight, Veteran Reserve Corps, military commissioner, Franklin county—station, Rocky Mount, Franklin county.

Brevet Captain B. F. Shaum, second lieutenant Veteran Reserve Corps, military commissioner, Bedford and Botetourt counties—station, Liberty, Bedford county.

Captain J. W. Sharp, Veteran Reserve Corps, military commissioner, Rockbridge, Alleghany, and Bath counties—station, Lexington, Rockbridge county.

Lieutenant H. W. Torbert, twenty-ninth United States infantry, military commissioner, Scott county—station, Estiville, Scott county.

SUB-DISTRICT OF WINCHESTER.

Brevet Lieutenant Colonel W. S. Franklin, United States army, captain twenty-first United States infantry, military commissioner, commanding; headquarters, Winchester.

Captain John A. McDonald, Veteran Reserve Corps, military commissioner, town of Winchester—station, Winchester, Frederick county.

Captain G. R. Chandler, Veteran Reserve Corps, military commissioner, Frederick and Clarke counties—station, Winchester, Frederick county.

Captain E. H. Ripley, Veteran Reserve Corps, military commissioner, Warren and Page counties—station, Front Royal, Warren county.

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Brevet First Lieutenant J. T. H. Hall, second lieutenant Veteran Reserve Corps, military commissioner, Shenandoah, Rockingham, Highland, and Augusta counties—station, Woodstock, Shenandoah county.

SUB-DISTRICT OF ALEXANDRIA.

Major Joseph Stewart, fourth United States artillery, military commissioner, commanding; headquarters, Alexandria.

Captain S. P. Lee, forty-fifth United States infantry, military commissioner, Alexandria city and county—station, Alexandria.

Second Lieutenant William Shields, Veteran Reserve Corps, military commissioner, Fairfax county—station, Fall's Church, Fairfax county.

First Lieutenant S. B. Smith, Veteran Reserve Corps, military commissioner, Loudon county—station, Leesburg, Loudon county.

Second Lieutenant W. S. Chase, Veteran Reserve Corps, military commissioner, Fauquier and Prince William counties—station, Warrenton, Fauquier county.

SUB-DISTRICT OF FREDERICKSBURG.

Brevet Lieutenant Colonel James Johnson, major Veteran Reserve Corps, military commissioner, commanding; headquarters, Fredericksburg.

Second Lieutenant Hector Sears, Veteran Reserve Corps, military commissioner, Spottsylvania, Stafford, and King George counties—station, Fredericksburg, Spottsylvania county.

Captain John O'Dwyer, Veteran Reserve Corps, military commissioner, Caroline county—station, Bowling Green, Caroline county.

Second Lieutenant W. R. Wentworth, Veteran Reserve Corps, military commissioner, Essex, King and Queen, and Middlesex counties—station, Tappahannock, Essex county.

Second Lieutenant H. K W. Ayers, Veteran Reserve Corps, military commissooner, Richmond and Westmoreland counties—station, Warsaw, Richmond county.

Second Lieutenant E. W. Busby, Veteran Reserve Corps, military commissioner, Northumberland and Lancaster counties—station, Heathsville, Northumberlaud county.

Brevet Major W. R. Morse, captain Veteran Reserve Corps, military commissioner, Orange and Louisa counties—station, Gordonsville, Orange county.

Captain S. W. Carpenter, Veteran Reserve Corps, military commissioner, Madison and Green counties—station, Madison court-house, Madison county.

Brevet Captain W. A. McNulty, second lieutenant Veteran Reserve Corps, military commissioner, Culpeper and Rappahannock counties—station, Culpeper Court House, Culpeper county.

By command of Brigadier and Brevet Major General J. M. Schofield, United States army:

S. F. CHALFIN,
Assistant Adjutant General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Circular.]

HEADQUARTERS FIRST MILITARY DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, June 10, 1867.

The commanding general directs that the registration of voters be prosecuted with as much despatch as may be consistent with a full and fair registration.

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It is his opinion that not more than six days will be required for the first session of the board in any district, and not more than one or two days for the second session. He desires the whole work to be completed, and the revised returns sent to Richmond on or before the last day in July.

Very respectfully,

S. F. CHALFIN,
Assistant Adjutant General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Special orders from the headquarters first military district, 1867.

[Special Order No. 4.]

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, March 16, 1867.

* * * * * * * *

6. The municipal election in the city of Fredericksburg, which the charter of that city directs to be held on Monday, the eighteenth instant, is hereby ordered to be suspended until the necessary preparations can be made to fully and fairly execute the provisions of the act of Congress of March 2, 1867, concerning the elective franchise and qualifications for office.

7. Major James Johnson, Veteran Reserve Corps, superintendent Bureau Refugees, Freedmen, and Abandoned Lands, at Fredericksburg, will furnish an official copy of this order to the mayor of the city, and to each of the civil officers whose duties in connection with the city elections are suspended by this order.

By command of Brigadier and Brevet Major General J. M. Schofield, United States army:

S. F. CHALFIN,
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Order No. 16.]

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, April 2, 1867.

I. A board of officers is hereby appointed to select and recommend to the commanding general for appointment, persons to form boards of registration throughout this district, as required by the act of March 23, 1867.

The persons required will be one registering officer for each magisterial district of a county, or ward of a city, and two, four, or six for the county or city at large, according to the size of the county or city, so as to form with the registering officers of the several districts or wards one, two, or three boards of registration for the county or city.

An officer of the army or Freedmen's Bureau will, if possible, be selected as a member of each board, and the other two will be selected from the following classes of persons, viz:

1st. Officers of the United States army, or of volunteers who have been honorably discharged after meritorious services during the late war.

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2d. Loyal citizens of the county or city for which they are selected.

3d. Any other loyal citizens having the proper qualifications.

These boards must be composed of men who not only are now, but always have been, loyal to the government of the United States—men of high character and sound and impartial judgment, and, as far as possible, men who have the confidence of all classes of citizens.

No registering officer shall be a candidate for any elective office while holding the office of registering officer.

With their recommendations for appointment, the board will report to the commanding general a brief of the testimonials and other evidence upon which their selections are based.

The board will report from time to time their selections for particular counties or cities, without waiting to complete the list.

DETAIL FOR THE BOARD.

Brevet Lieutenant Colonel George Gibson, jr., captain eleventh United States infantry.

Brevet Major C. R. Layton, captain eleventh United States infantry.

Brevet Major D. M. Vance, captain eleventh United States infantry.

Captain Garrick Mallery, forty-third United States infantry.

Captain J. A. Bates, forty-third United States infantry.

By command of Brigadier and Brevet Major General J. M. Schofield, United States army:

S. F. CHALFIN,
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 23.]

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, April 15, 1867.

* * * * * * *

2. The following named officers, having been appointed registering officers, are hereby relieved from their present duties and will at once proceed to the counties and cities designated in their letters of appointment, and enter upon their duties under instructions from these headquarters:

Brevet Colonel F. L. Guenther, fifth United States artillery.

Brevet Lieutenant Colonel H. B. Reed, first lieutenant fifth United States artillery.

Captain J. W. Piper, fifth United States artillery.

Brevet Captain Samuel Peeples, first lieutenant fifth United States artillery.

Brevet Captain J. A. Fessenden, first lieutenant fifth United States artillery.

First Lieutenant W. A. Cameron, fifth United States artillery.

Second Lieutenant E. W. Barstow, fifth United States artillery.

Second Lieutenant Joseph E. Swift, fifth United States artillery.

Brevet Lieutenant Colonel George H. Higbee, captain eleventh United States infantry.

Brevet Lieutenant Colonel F. M. Cooley, captain eleventh United States infantry.

Brevet Lieutenant Colonel Joshua S. Fletcher, captain eleventh United States infantry.

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Captain Thomas E. Rose, eleventh United States infantry.
First Lieutenant H. C. Ward, eleventh United States infantry.
Second Lieutenant Francis J. Dunn, eleventh United States infantry.
Second Lieutenant W. V. Richards, eleventh United States infantry.
Second Lieutenant Stephen K. Mahon, eleventh United States infantry.
Second Lieutenant W. H. Vinal, eleventh United States infantry.
Major Dickenson Woodruff, twenty-first United States infantry.
Brevet Lieutenant Colonel T. M. Anderson, captain twenty-first United States infantry.
Brevet Lieutenant Colonel Thomas S. Dunn, captain twenty-first United States infantry.
Brevet Major Henry R. Putnam, captain twenty-first United States infantry.
Brevet Captain Madison Earle, first lieutenant twenty-first United States infantry.
First Lieutenant J. L Johnston, twenty-first United States infantry.
Major Lyman Bissell, twenty-ninth United States infantry.
Brevet Colonel H. A. Hambright, captain twenty-ninth United States infantry.
Brevet Lieutenant Colonel H. L. Chipman, captain twenty-ninth United States infantry.
Brevet Major James K. Lawrence, captain twenty-ninth United States infantry.
Brevet Major Eugene Carter, captain twenty-ninth United States infantry.
Brevet Captain E. S. Huntington, first lieutenant twenty-ninth United States infantry.
First Lieutenant F. W. Hess, twenty-ninth United States infantry.
First Lieutenant W. A. Gage, twenty-ninth United States infantry.
Second Lieutenant W. Hoffman, twenty-ninth United States infantry.
Second Lieutenant W. S. Mackay, twenty-ninth United States infantry.
Second Lieutenant R. G. Hemer, twenty-ninth United States infantry.

By command of Brigadier and Brevet Major General J. M. Schofield, United States army:

S. F. CHALFIN,
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 25.]

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, April 17, 1867.

* * * * * * *

2. So much of Special Orders No. 23, from these headquarters, dated April 15, 1867, as relieves Second Lieutenant E. W. Barstow, fifth United States artillery, from duty with his regiment is hereby rescinded, his appointment as registering officer having been revoked.

3. The following named officers having been appointed registering officers, are hereby relieved from their present duties, and will at once proceed to the counties and cities designated in their letters of appointment and enter upon their duties under instructions from these headquarters:

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Brevet First Lieutenant S. A. Day, second lieutenant fifth United States artillery.

By command of Brigadier and Brevet Major General J. M. Schofield, United States army:

S. F. CHALFIN,
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 27.]

HEADQUARTERS FIRST MILITARY DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, April 20, 1867.

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II. So much of Special Orders No. 23, from these headquarters, dated April 15, 1867, as relieves First Lieutenant Frank W. Hess, twenty-ninth United States infantry, from duty with his regiment is hereby rescinded, his appointment as registering officer having been revoked.

III. The following named officers having been appointed registering officers, are hereby relieved from their present duties, and will at once proceed to the counties and cities designated in their letters of appointment and enter upon their duties, under instructions from these headquarters:

Second Lieutenant Thomas E. Merritt, twenty-ninth United States infantry.

* * * * * * *

By command of Brigadier and Brevet Major General J. M. Schofield, United States army:

S. F. CHALFIN,
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 30.]

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, April 25, 1867.

* * * * * * *

II. So much of Special Orders No. 23 as relieves Second Lieutenant Joseph G. Swift, fifth United States artillery, from duty with his regiment is hereby rescinded, his appointment as registering officer having been cancelled.

He will at once rejoin his battery for duty.

* * * * * * *

By command of Brigadier and Brevet Major General J. M. Schofield, United States army:

S. F. CHALFIN,
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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[Special Orders No. 39.—Extract.]

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, May 14, 1867.

* * * * * * *

IV. The association of colored men in this city styled "The Lincoln Mounted Guard," formerly known as "The Union Aid Society," is hereby directed to lay aside entirely its military character, and its members are forbidden to parade or appear in the streets in uniform with arms of any kind, or with field music, or to assemble at any place for the purpose of parade or drill; they must in all respects maintain a purely civic character.

* * * * * * *

By command of Brigadier and Brevet Major General J. M. Schofield, United States army:

S. F. CHALFIN,
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1869.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 41.]

HEADQUARTERS FIRST MILITARY DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, May 16, 1867.

I. James W. Green and James Barbour, commissioners by virtue of a decree of the circuit court of Culpeper, made on the 27th day of January, 1867, in the case of E. A. Freeman *vs.* W. D. Wallach, &c., and also James W. Green and Henry Shacklefoid, trustees by virtue of deed of trust dated 1st day of October, 1860, from W. D. Wallach, recorded in the clerk's office of the county of Culpeper, are hereby directed to suspend all and every proceeding under or by virtue of said decree and by the authority of said deed of trust until further instructions from these headquarters.

* * * * * * *

By command of Brigadier and Brevet Major General J. M. Schofield, United States army:

S. F CHALFIN,
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 50.]

HEADQUARTERS FIRST MILITARY DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, May 27, 1867.

I. Upon representations made to these headquarters, Mr. William Lee, justice of the peace in and for the county of Fairfax, is hereby suspended from his office, and prohibited from the exercise of any of the functions thereof until further orders.

* * * * * * *

By command of Brigadier and Brevet Major General J. M. Schofield, United States army:

J. L. RATHBONE,
First Lieut. Twelfth U. S. Infantry, A. D. C., A. A. A. G.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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[Special Orders No. 54.]

HEADQUARTERS FIRST MILITARY DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, June 2, 1867.

* * * * * * *

VII. Upon representations made to these headquarters, Mr. John W. Wilson, justice of the peace for the sixth (6th) magisterial district, Sussex county, Virginia, is hereby suspended from his office and prohibited from the exercise of any of the functions thereof until further orders.

By command of Brigadier and Brevet Major General J. M. Schofield, United States army:

S. F. CHALFIN,
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 55.]

HEADQUARTERS FIRST MILITARY DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, June 3, 1867.

* * * * * * * *

IV. The circuit court of the county of Bedford, State of Virginia, is hereby ordered to suspend all proceedings for the collection of any judgment rendered therein against Wilson C. Hewitt, for an assault upon Roland C. Buford, in the year 1863, until further instructions from these headquarters.

* * * * * * *

By command of Brigadier and Brevet Major General J. M. Schofield, United States army:

S. F. CHALFIN,
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 74.]

HEADQUARTERS FIRST MILITARY DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, June 28, 1867.

I. Brevet Major C. R. Layton, United States army, captain eleventh United States infantry, is hereby assigned as inspector of registration for the city of Richmond.

He will correct and investigate, as far as possible, all errors and abuses that may exist in the registration.

By command of Brigadier and Brevet Major General J. M. Schofield, United States army:

J. L. RATHBONE,
First Lieut. Twelfth U. S. Inf. and A. D. C., A. A. A. G.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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SECOND DISTRICT.

OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., March 21, 1867.

[From Charleston, S. C., March 21, 1867.]

General U. S. GRANT, *Commanding Armies United States:*

I have the honor to report my arrival at this place yesterday, and have assumed command to-day.

D. E. SICKLES,
Major General Commanding.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

HEADQUARTERS SECOND MILITARY DISTRICT,
(NORTH CAROLINA AND SOUTH CAROLINA,)
Charleston, S. C., April 10, 1867.

SIR: I have the honor to transmit Special Orders No. 15, from these headquarters, of this date, and also the papers causing their issue.

Very respectfully, your obedient servant,

D. E. SICKLES,
Major General Commanding.

ASSISTANT ADJUTANT GENERAL,
Headquarters of the Army, Washington, D. C.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

[Special Orders No. 15.]

HEADQUARTERS SECOND MILITARY DISTRICT,
(NORTH CAROLINA AND SOUTH CAROLINA,)
Charleston, S. C., April 10, 1867.

I It appearing, upon the report of the commanding officer of the post of Wilmington, that Sergeant Aldridge and Private Cowan, of the police of Wilmington, have shown a want of discretion and judgment in the discharge of their duties, and have exhibited unnecessary and unwarranted violence in making arrests, they are hereby removed from office. The marshal of Wilmington, in filling these and other vacancies, will be admonished by the post commander to select trustworthy persons.

II. It appearing, from numerous complaints, which, upon investigation, appear to have sufficient foundation, that the organization of the police of Wilmington, as now constituted and directed, requires modification, for the purpose of insuring greater impartiality and discretion in the selection and government of the men comprising the force, it is ordered that the commanding officer of the

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post assume control of the police of Wilmington; that the marshal shall hereafter report to the post commander for orders; and that all removals and appointments to be made therein shall be first submitted to these headquarters through the post commander, with his remarks and recommendations.

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By command of Major General D. E. Sickles:

J. W. CLOUS,
Capt. 38th Infantry, A. D. C., and A. A. A. General.

WILMINGTON, N. C., *March* 25, 1867.

SIR: We, the undersigned, loyal citizens of the city of Wilmington, beg leave to make the following statement:

That, in the night of the 11th of February last, while passing along the streets of this city, we were attacked by a posse of police, and brutally beaten—one of the party being stabbed and left for dead; another of us beaten with clubs, and inflicting severe wounds. All of this treatment was justified because we happened to be singing one of our national airs. Legal proceedings were instituted against us for violating a city ordinance, and were fined accordingly. The mayor's court, before whom this case was heard, positively refused to hear the testimony of twelve witnesses, who would testify that some of the witnesses for the prosecution could not be believed on oath. The fine imposed upon us we paid upon protest, and have instituted an action against the police for trespass *vi et armis*, which is to be heard and determined in the criminal court in this city, on Monday next.

What we now respectfully ask is, that a military court be instituted to hear and determine this cause of action, as no good loyalist can obtain justice in the civil courts in this city; and if this cause of action comes under the late military bill, that the criminal court here be ordered to stay proceedings, and that the parties be arrested or be bound over to answer the judgment of a military court, as the bonds which the parties are now under terminate on being brought into the criminal court, on Monday next.

Hoping, general, that this matter may engage your immediate attention, and that your indorsement upon this statement, or your action upon the matter, may reach us by Sunday next, we remain, very respectfully, your obedient servants,

JOSEPH SWEENEY.
E. C. SWEENEY.
JOHN MALERKY.
DANIEL McGILL.

ASSISTANT ADJUTANT GENERAL, *Department of the South.*

HEADQUARTERS SECOND MILITARY DISTRICT,
(NORTH CAROLINA AND SOUTH CAROLINA,)
Charleston, S. C., March 30, 1867.

Respectfully referred to the commanding officer of Wilmington, North Carolina, for investigation and report. If necessary, he may take such provisional action as the merits of the case may demand, until the matter is finally decided at these headquarters; but such provisional action must be at once reported to these headquarters. A report of the organization and *personnel* of the police force at Wilmington is also required.

By command of Major General Daniel E. Sickles:

J. W. CLOUS,
Capt 38th Infantry, A. A. A. General.

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HEADQUARTERS POST OF WILMINGTON,
Wilmington, N. C., April 3, 1867.

CAPTAIN: I have the honor to make the following report as the result of an investigation in the case of Joseph Sweeney and others:

The statements of the parties concerned in this case were so contradictory that I decided to swear each one and take down his testimony, which is herewith transmitted. It embraces, I think, all the evidence in the case. The matter against Lynch and Aldridge, of the police, is now before the criminal court. I could see no provisional action that I could take, except to remove the cases from the jurisdiction of the civil court. This I have not done, believing, that should that court not do full justice in the case, it would be competent for the military authorities to set aside these proceedings and assume jurisdiction. The action of the court in the case of Lynch will be reported as soon as known. Lynch is a citizen, formerly a member of the police. He is a bad man, and the cause of much mischief. He was called to the assistance of the police in this affair. In my opinion, the evidence in this case shows that the party was going along the street, about two o'clock on the morning of the 11th of February, making some noise, and some of them somewhat under the influence of liquor; they were ordered to desist, which was not immediately complied with; that the arrest of the party was undertaken, and some resistance made—for this they were tried before the mayor and fined. That the police displayed a great want of discretion and judgment, and exercised unnecessary and unwarrantable violence; that Lynch made an unprovoked assault with a knife, with intent to kill, upon the person of Malarkey, which came near causing his death; that his vision is very much impaired, and which he probably will never recover.

I recommend that Aldridge and Cowan be dismissed from the police force, and that, should the action of the court in the case of Lynch not be such as the nature of the case requires, the proceedings be set aside, and he be tried by a court-martial.

In reference to the trial and fines imposed by the mayor, I think the evidence shows that these parties were not entirely blameless, and that the action of the court was perhaps just. At all events, the mayor, though quite an old man, and wanting perhaps in firmness and decision of character, was not unfriendly to these parties, but rather sympathized with them. He is regarded as a Union man, and was elected on that ticket.

My report in reference to the *personnel* of the police force will be made as soon as practicable.

Very respectfully, your obedient servant,

R. T. FRANK,
Brevet Lieut. Col. and Capt. 8th Inf., commanding Post.

Captain J. W. CLOUS, *A. A. A. G.*,
Charleston, S. C.

HEADQUARTERS POST OF WILMINGTON, NORTH CAROLINA,
April 5, 1867.

CAPTAIN: In obedience to the instructions of the major general commanding the second military district, I have the honor to make the following report of the *personnel* of the police force of this city. The marshal, who has the full control and management of the police, is Robert Ransom, a graduate of West Point, and formerly an officer of the army. He left at the breaking out of the rebellion and joined the rebel cause, attaining the rank of major general. He has performed his duty as a general thing, I believe, to the satisfaction of all. He is,

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however, strongly southern in his prejudices, and imbues the police more or less with his feelings. I think it would be well if his place were supplied by a more acceptable person. The strength of the police force is fifty or fifty-one men. They are in good discipline, and as a general thing are sober and faithful in the discharge of their duty to all parties. I have conferred with many of the best and most substantial Union men here on this subject, who concur in the above opinion. There are men here whose zeal in this, as in many other things, exceeds their judgment, who desire the removal of the whole police force, but I do not think it called for; nor, indeed, do I know where competent and reliable men could be had to supply their places. It is true that the force is composed largely if not entirely of ex-rebel soldiers, but there are few others here seeking the position who are fit for it. There are, unquestionably, individual members of the force who ought to be removed, and might be, through the marshal, if proper, from time to time, as they become known. The examination of the Sweeney case developed some, and the case of Neff and others is understood to be similar.

Very respectfully, your obedient servant,

R T. FRANK,

Brevet Lieut. Col. and Capt. 8th U. S .nf., Commanding Post.

Captain J. W. CLOUS,

Assistant Adjutant General, Charleston, S. C.

John Malarkey, being duly sworn, says: On the night of the 10th of February, about 10 o'clock, when I was coming home from Mr. Sweeney's house, Mr. Sweeney and his brother came along with McGill, and T. M. J. Sweeney and I were singing. Mr. Aldridge and Lynch came up to us and said it was against the ordinance of the town—quit that singing. Sweeney asked if it was against the ordinance of the town to whistle, and then commenced whistling. Sergeant Aldridge then blew his whistle. I told him there was no use in making any noise in the town; that we were all well known; there was no use in alarming the neighbors. The next thing I saw was two policemen whom I did not know, coming to the assistance of Sergeant Aldridge, and by his order arrested the two Sweeneys and McGill. After this Sergeant Aldridge and John Lynch turned round and met me. Lynch having a knife in his hand, stabbed me, and said he owed me something that he would give me. I had a cane or stick in my hand, and struck at him with it. As I did so, Sergeant Aldridge struck me with his club. When I was in the act of falling, Lynch stabbed me in the face again. Sergeant Aldridge followed this with another stroke of his club. I knew nothing that happened afterwards, for I was stupid and benumbed. I knew nothing more until the next day, when my wounds were sewed up by Dr. Love.

Dr. U. J. Love, being duly sworn, says: I attended Malarkey and found him suffering from two wounds—one in the face and one in the side. The wound in the side was a dangerous one, and from the circumstances I suppose it penetrated the liver to a slight extent. The wound in the side was made by a knife; the wound in the face there was some doubt about, as it was a ragged wound. It may have been made by a knife, or it may have been made by a blow. The face was not bruised; the jagged appearance of the wound was the only evidence of a blunt weapon having been used. He appeared to have been suffering from exposure from hemorrhage and from loss of blood. I entertained much doubt about his recovery; I considered him in decided danger. I found no injuries about Malarkey that would indicate that he had been struck with a club; he complained of being much bruised about the hips, but he was so low I was not willing to turn him over to examine them. There may have been some contusion about the head, but his other wounds took my exclusive

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attention. The blow on the face might have produced an aberration of the vision by the effect upon the brain.

Joseph Sweeney, being duly sworn, says: On the morning of the 11th of February an assault was committed upon me by Sergeant Aldridge, of the police. My brother and myself were coming along the street, near Shoemaker Hotel; the party requested me to sing a song, and I complied by singing "Rally round the flag." When we came near the door of Mrs. Richardson Malarkey proposed a drink at her house, and, to the best of my opinion, Malarkey went up and knocked at Mrs. Richardson's door. At that time Sergeant Aldridge and Lynch came up and told us to stop that fuss and singing on Sunday night—this was after 2 o'clock, to the best of my opinion. I answered that it was not Sunday night, it was Monday morning, and asked if there was an ordinance prohibiting whistling. A remark was then made by some of the party to go on, as there was no response to the knock at the door, they being in bed. I then went off whistling Yankee Doodle, with Malarkey by my side; my brother and McGill came up after us. As we got to the next corner we halted for my brother and McGill to come up. Sergeant Aldridge then came running after and caught McGill by the collar and said, "I will take you to the guard-house anyhow, damn you," I believe were the words be used. McGill had hold of my brother by the arm; my brother asked the police to let McGill alone—what had he done? that he was under his charge, and that he was competent to take him home. The police said that McGill had told him to kiss his arse, and that he would take him anyhow. About that time a policeman tried to blow his whistle. I took hold of his arm and appealed to him not to blow his whistle—not to create a disturbance; that they knew us all; that we were perfectly quiet, and on the way going home with these men; that I would not get my name in the papers for creating a disturbance under any circumstances. About this time two of the policemen were beating McGill with a club; who they were I cannot tell, as it was dark. As I then turned round Sergeant Aldridge had hold of my brother by the arm, and his club raised to strike him. I caught hold of the club and told him not to strike my brother, and appealed to him again not to create a disturbance. He then said I was resisting him in his duty by holding on to his club. I told him that, under those circumstances, I would let go of it, and that if he wanted any assistance to call upon me and I would assist him. As soon as I let go of his club he kicked me on the privates, and I called upon my brother to witness that he had struck me. I then appealed to McGill to go along peacably with the policeman, and that I would see that we got justice in the morning. About this time I left the party to go to the mayor's house to give security for the appearance of the whole party at court in the morning, to avoid being kept in the guard-house over night. I was soon followed, policeman calling out "stop thief," and was arrested and carried to the guard-house. I saw Sergeant Aldridge striking McGill in the guard-house. They confined three of us in one cell, with a privy in one end of it, till eleven o'clock the next morning.

Cross-examined:

Malarkey and McGill were not what I call drunk, they had taken some liquor to my knowledge; Malarkey was not under the influence of liquor, but McGill, in my opinion, was competent to take care of himself; neither my brother nor myself took charge of Malarkey or McGill, because we thought them too drunk to take care of themselves, but because we were talking about selling out and going where we would not be persecuted on account of Union principles. I do not know whether Malarkey said anything about being cut while Sergeant Aldridge was present; I did not see him after he was cut, and did not know what became of him. I cannot say that I prevented Sergeant Aldridge from blowing his whistle, but I took hold of a policeman's arm and

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appealed to him not to blow his whistle or create a disturbance. Warrants have been taken out against Aldridge and Lynch; I did not see Aldridge strike Malarkey; I heard a whistle blow, but cannot say who blew it.

Edward C. Sweeney, being duly sworn, says: On the morning of the 11th of February I was walking with Mr. McGill. Sergeant Aldridge came after him, caught him by the collar, and said he would take him to the guard-house; I asked what for; he said he had told him to kiss his arse; I said that I had heard no such words pass, and told him to let him go along with me—McGill holding on to my arm; I heard policeman Drew trying to blow his whistle; it would not blow shrill; I requested him not to blow it—that it would get up a disturbance; we wished to be peaceable; John Lynch then came up and said "Let me blow it," and, I think, did take the whistle. Sergeant Aldridge took hold of my collar; McGill had hold of my left arm; Aldridge raised his club, and my brother caught it. He requested my brother to let go of it, as he was resisting him in his duty as an officer—he did so; Sergeant Aldridge then kicked my brother on the privates; Aldridge then took charge of me and went as far as the corner of Nutt and Mulberry, and there gave me in charge of Lynch. Lynch drew his knife and said he would cut my damned Yankee guts out—waving his knife up and down in front of me, making several threats. I begged him not to cut me. We then went to Front street; Lynch rushed past me and struck McGill on the back; I, knowing that he had a knife, asked some of the policemen to arrest that man, as he was stabbing McGill, but, on examination, found he was not cut. We were all then taken to the guard-house. I saw Sergeant Aldridge strike McGill in the guard-house; he tore open my clothes and commenced searching my person; did not refuse to let go of McGill; did not have hold of him; I believe the policeman said to me that I was resisting him in the discharge of his duty.

Cross examined:

I did not strike Sergeant Aldridge with a stick at the time he arrested me; did not see him strike Malarkey; was not present all the time. I wish to state that I was tried and fined by the mayor for violation of a city ordinance, and that I paid the fine under protest. He refused to hear any of my witnesses in the case, or to allow me to make any statement why I should not be fined.

Daniel McGill, being duly sworn, says: On the morning of the 11th of February, while going along with Mr. Sweeney and others, Mr. Sweeney was singing. Sergeant Aldridge told him it was against the city ordinance to sing. He asked if it was so to whistle; heard no reply, and he went on whistling. I was neither whistling nor singing. The police said it was Sunday night. I took out my watch and told them it was nearly two o'clock. As I was going along, Sergeant Aldridge came up and caught me by the collar of the coat, and said, "You son of a bitch, I will take you to the guard-house anyhow." I held on to Mr. Sweeney's arm. Mr. S. could not get clear of me. Sergeant Aldridge gave me in charge of another man, and then struck me with his club on the head. Policeman Cowan struck me with his club also a heavy blow. I called on Policeman Drew, as a policeman and a gentleman, to witness how they were abusing me. Some one whom I did not know came up and struck me between the shoulders. After we had reached the guard-house, Aldridge struck me in the face with his fist two or three blows. Policeman Drew, who had charge of me, put up his arm to protect me, saying that I was his prisoner, and he would take charge of me.

Cross-examined:

Sergeant Aldridge told me at the time he arrested me that I had made use of some expressions.

Policeman D. C. Drew, being duly sworn, says: I had McGill at the guard-

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house, and was present when Sergeant Aldridge struck him. He struck him with his hand. I prevented the blow in part by throwing up my hand. McGill refused to be searched, and would not search himself. He afterwards agreed for me to search him. I think that the cause of Aldridge striking McGill was that he used some insulting expressions.

The examination on the part of Sweeney, Malarkey, and McGill here closed.

Policeman D. C. Drew, a witness for the accused, recalled: On Sunday night or Monday morning of the 11th of February I heard the singing which has been mentioned, and I went up the street; met Sergeant Aldridge and Mr. Lynch. The singing had ceased, and one of the party was knocking at Mrs. Richardson's door. They did not get the door open, and started off, and as they did so some of the party commenced singing again. To the best of my knowledge they did. Sergeant Aldridge asked them not to sing, not to make any disturbance on Sunday night, as it was against the ordinance of the city. Some one of them asked if it was against the order, and he said yes, and they then asked if it was against orders to whistle. He said they had better not, as it was Sunday night. They took out their watch, and said it was Monday morning, mentioning the hour, and said they would whistle as much as they d—d please. By that time the party had got some fifteen or twenty steps from me. I then saw Sergeant Aldridge make an attempt to arrest McGill, and there was resistance made by the other parties to keep him from taking, and I went to his assistance. When I got there I put my hand on McGill myself, and Sergeant Aldridge turned to some of the other party, I cannot say who. As he turned saw Malarkey raise a stick to strike him, and as he did so Lynch caught the stick with his hands. Lynch said to Malarkey to go along, or to go home quietly. Lynch let go his stick then, and turned from him. I saw Malarkey then raise his stick apparently with the intention of striking Lynch. I saw nothing more of the affair between Malarkey and Lynch. As I attempted to blow my whistle for assistance I was prevented by some of the party; I cannot say who. The whistle did not blow very well, but I was trying the best I could with it. I know nothing more of the case of consequence until we arrived at the guard-house; what happened there I have stated before. I saw no one strike McGill at the time of his arrest; did not see Sergeant Aldridge strike Malarkey.

Cross-examined:

I was asked by McGill to witness how he was being abused, but did not see any lick passed; saw McGill after he was at the guard-house; saw that he was beat, and bruised, and bleeding; he was under my charge part of the time after his arrest. I cannot say whether he was under my charge at the time he was beat and bruised or not. I let him go a part of the time; at the time I blew the whistle I let him go. I think it was Mr. McGill who took out the watch. Resistance was made by some of the party; I cannot say who. They were trying to take McGill away; heard one of the Sweeneys advise McGill to go along to the guard-house quietly, and not to make any resistance. Cannot say that I saw any of the police have Joseph Sweeney in charge at the time of the arrest. At the time one of the Sweeneys said to me not to blow my whistle, not to make any disturbance. It was said in a quiet manner; I cannot say whether it was said in a friendly spirit or otherwise. I remember that one of the Sweeneys said, calling me by name, that he was not drunk; to let them go along in a quiet manner. They were going towards Malarkey's house, after they left Mrs. Richardson's, not quietly, to the best of my opinion. Do not recollect of E. C. Sweeney asking his brother to go to the mayor to give security for their appearance in the morning. Do not know who had J. Sweeney in charge at this time; know that I did not. Was sent by Sergeant Aldridge at this time to stop him; not willing to state whether I called out to "stop thief." My object in giving alarm was to call the attention of the police officers ahead of him. Some of the party I suppose were under the influence of liquor; cannot say that Malarkey was

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drunk; think that he was under the influence of liquor. I think McGill was under the influence of liquor. To the best of my opinion it was near the Farmers' Hotel that McGill asked me to witness how he was being abused. It was not at the time of the arrest. Have no reason to think that Sergeant Aldridge was under the influence of liquor.

Policeman William W. Cowan, a witness for Sergeant Aldridge, being duly sworn, says: When I came in answer to the whistle, I was ordered back to my beat by Sergeant Aldridge; that there was no use for me. I heard a whistle blow after I was sent back, and returned again. When I returned, Sergeant Aldridge had hold of Ed. Sweeney; did not see Sergeant Aldridge use any unnecessary violence towards McGill, or Sweeney, or Malarkey; did not see Aldridge strike Malarkey or attempt to strike him. I saw Malarkey draw back a stick to strike Aldridge, and Lynch caught it, and told him not to do it; to go along home—that no one would trouble him. At that time Aldridge called Lynch to his assistance. After Lynch turned to Aldridge's assistance, Malarkey struck Lynch with a stick; did not see Ed. Sweeney strike Aldridge; did not see any licks pass at the time McGill and Sweeney were being arrested; was in the guard-house at the time Sweeney and McGill were being searched. McGill's condition at that time was that of a drunken man, to the best of my opinion. At the time I arrived after the whistle was blown, Malarkey, to the best of my opinion, was under the influence of liquor. Heard McGill abuse Aldridge on the way to the guard-house and after he got there. Do not think any one had hold of J. Sweeney at the time he started for the mayor.

Policeman Thomas Simpson, witness for Sergeant Aldridge, being sworn, says: That when Mr. McGill came in the guard-house I should take him for drunk; he could not walk without staggering. Did not see any blood or bruises on him then; cannot say whether it was from liquor or bruises that he was staggering.

John Malarkey, recalled, says: That since the assault upon me on the 11th of February, my vision has been very much impaired. When looking with both eyes all objects are seen double; does not believe that he will ever recover the perfect use of his eyes; that he is unable to read except by closing one eye; that he is otherwise much debilitated, and that this is the result of the assault made upon him by Sergeant Aldridge and Lynch.

Mr. John Dawson, mayor of Wilmington, North Carolina, being sworn, says: Joseph and Edward Sweeney were tried by me for resisting the police in the discharge of their duty. They were found guilty and fined, one ten dollars and the other fifteen. Joseph Sweeney came forward and said that he would pay his fine under protest; that he would have military law some day, and he would then get justice. I refused to take it in that way. He then handed me ten dollars and I told him to hand it to the marshal. He then laid it on the table in front of the marshal. Sweeney had witnesses in his defence. Some question was raised by the marshal about swearing Catholics upon a bible without a cross on it, but I decided emphatically that it was not necessary. The remark of the marshal created some indignation on the part of the witnesses, and, in consequence, they declined or expressed a desire not to testify in the case. Although I had the power to compel them, I did not see fit to do so. Do not remember whether Mr. Sweeney asked to be heard, or to make any argument in his defence. He was not refused permission to do so.

R. T. FRANK,
Brevet Lieutenant Colonel and Captain 8th Infantry.

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HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, South Carolina, April 18, 1867.

GENERAL: Enclosed please find copy of an extract from a letter received yesterday from Governor Orr, and also copy extract from a communication from Governor Worth. All the indications point so far to the successful administration and execution of the recent acts of Congress for the reorganization of these States. Governors Orr and Worth have recently passed a few days here with me, by my invitation. We talked over a good many of the matters appertaining to the work in hand, and upon most questions they acceded without much pressure to my views, and in all things assured me of their acquiescence and co-operation. Such is, I believe, the general disposition throughout the Carolinas.

Truly yours,

D. E. SICKLES, *Major General.*

U. S. GRANT, *General-in-Chief.*

STATE OF NORTH CAROLINA, EXECUTIVE DEPARTMENT,
Raleigh, March 28, 1867.

GENERAL: I hoped to have seen you again in Washington city, and called for the purpose, but, unfortunately, after you had left the city.

You will find the government and people of North Carolina conforming to the requirements of the late reconstruction acts of Congress and your orders thereunder.

There are some provisions as to the construction of which there is diversity of opinion.

* * * * * * * * *

I hope it will not be deemed obtrusive on my part to make these suggestions.

I not only desire to avoid any official act which shall expose me to just animadversion on your part, but hope I may be able, as I certainly desire, to make my official action agreeable to you.

Your General Orders No. 1, March 21, 1867, have been received. In the seventh section you declare all orders heretofore published to the department of the south in force. I would be glad to receive a copy of said orders.

I have the honor to be, yours very respectfully,

JONATHAN WORTH,
Governor of North Carolina.

Major General D. E. SICKLES,
Charleston, South Carolina.

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, South Carolina, April 18, 1867.

Official:

J. W. CLOUS,
Acting Assistant Adjutant General.

Official copy:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

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EXECUTIVE DEPARTMENT,
Columbia, South Carolina, April 16, 1867.

GENERAL: * * * * * * * * *

I have perused with very great satisfaction your General Order No. 10, dated the 11th of April, 1867, and beg leave to express my hearty concurrence in all its provisions.

So far as I have been able to ascertain public sentiment to-day, I think it meets with the unqualified approval of our entire population. The representations made to you as to the number of suits that have been instituted, above twenty dollars, are under, rather than over the mark; and I regret to learn that very many suits have been brought, and property of small value levied upon in cases tried in magistrates' courts, where, as you know, the sums are under twenty dollars.

I have issued a circular to the district officers in each district, (a copy of which is enclosed,) and also to trustworthy men known to me, to furnish me with the names of competent persons to act as registers and managers of elections, and am very sanguine that in most of the districts I shall be able to present for your consideration such names as will secure a faithful execution of the law of Congress.

I apprehend no serious opposition to the policy of the State in going heartily and cordially into the work of reconstruction under that legislation, and avail myself of every occasion, public and private, to give assurance to our leading citizens that we shall receive your kind co-operation in the great work before us.

I have the honor to be, general, very sincerely and truly yours,

JAMES L. ORR,
Governor of South Carolina.

Major General D. E. SICKLES,
Charleston, South Carolina.

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, South Carolina, April 18, 1867.

Official:

J. W. CLOUS,
Acting Assistant Adjutant General.

[By telegraph, in cipher.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, South Carolina, June 14, 1867.

ADJUTANT GENERAL *of the Army, War Department, Washington, D. C.:*

I have the honor to state that in the present condition of these States it is not practicable to afford adequate security to persons and property unless the commanding general of the district is authorized to remove civil officers who fail to perform their duties. The military force under my command is insufficient to meet the essential requirements of the reconstruction acts unless, by the exercise of control over all civil functionaries, I can have their prompt and certain co-operation. I will give the most recent one of many instances to illustrate what I have said. In April last, Mac Morris, a resident of Sumpter district, South Carolina, shot and mortally wounded a colored man. Some time after the case was reported to the military authorities, a warrant was issued by a magistrate for the arrest of the offender, and put in the hands of the sheriff for execution. No arrest was made. Meanwhile another outrageous assault was committed in

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the same neighborhood upon the person of the Reverend Mr. Tamblyn, a missionary preacher, on his return from a meeting of citizens. No arrest made. On the 28th of May I directed the provost marshal general to inform the sheriff of Sumpter that if Mac Morris was not arrested and turned over to military custody within ten days, the sheriff would be dismissed from office. It did not take the sheriff long to find Mac Morris, for on the the 3d of June his arrest was reported. The governors of these States have no executive control over sheriffs, magistrates, constables, or other like officers. Only the legislature, when in session, or the courts of law, by jury trial, can remove or punish inefficient or culpable officials. Without military control, I believe reconstruction is impossible. Anarchy would rule—ruin to all interests would follow.

D. E. SICKLES,
Major General Commanding.

Official copy respectfully furnished by mail.

J. W. CLOUS,
Captain 38th United States Infantry, A. D. C. and A. A. A. G.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 6, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

UNITED STATES MILITARY TELEGRAPH, WAR DEPARTMENT.

[From Charleston, S. C., June 17, 1867.—Received 12.20 p. m., in cipher.]

General U. S. GRANT, *Headquarters of the Army:*

Sixth section of first military government act authorizes the removal of nearly every civil officer in the south. From governors down, not more than one in twenty could take the oath if required to do so by a military order of three lines. This may become necessary to the successful execution of the reconstruction measure passed by Congress. Not more than twelve removals have yet been made in the Carolinas, and these for positive misconduct in office.

D. E. SICKLES,
Major General Commanding.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

UNITED STATES MILITARY TELEGRAPH, WAR DEPARTMENT.

[From Charleston, S. C., June 18, 1867.—Received 12 m., in cipher.]

General U. S. GRANT, *Headquarters Army United States:*

The Charleston "Daily News" of this date—organ of the reconstruction party of South Carolina—in a powerful leader on the published semi-official synopsis of the Attorney General's opinion, dissents from its conclusions, and, in the interests of the South and reconstruction, as well as of order, earnestly appeals to the President to adhere to the views expressed in his veto message, and to his patriotic purpose to execute the reconstruction acts as military measures.

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The Daily News represents the opinions of four-fifths of the people of South Carolina.

D. E. SICKLES,
Major General Commanding.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

[Telegram.—Original sent 11.15 a. m.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., June 19, 1867.

ADJUTANT GENERAL *of the Army,*
War Department, Washington, D. C.:

I have the honor to request that I may be relieved from command of this military district, and I respectfully demand a court of inquiry upon my official action, that I may vindicate myself from the accusation of the Attorney General, published, it is presumed, with the approval of the President. Congress having declared the so-called State governments illegal, the declaration of the Attorney General that military authority has not superseded them prevents the execution of the reconstruction acts, disarms me of means to protect life, property, or the rights of citizens, and menaces all interests in these States with ruin.

DAN'L E. SICKLES,
Major General Commanding.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Telegram.]

ADJUTANT GENERAL'S OFFICE,
Washington, June 20, 1867.

Major General D. E. SICKLES,
Commanding 2d District, Charleston, South Carolina:

Your telegram of yesterday received. The Secretary of War will lay it before the President in cabinet meeting to-day for his instructions.

E. D. TOWNSEND,
Assistant Adjutant General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Telegram.]

WAR DEPARTMENT,
Washington City, June 21, 1867.

Brevet Major General SICKLES, *Commanding &c., Charleston, S. C.:*

Your telegram asking to be relieved from command of the second military district, and demanding a court of inquiry, was submitted by the Secretary of

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War yesterday to the President, who directs you to retain your command, and he declines to order the court of inquiry demanded by you.

By order of the President:

E. D. TOWNSEND,
Assistant Adjutant General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., July 6, 1867.

GENERAL: I have the honor to report that in my judgment it is not expedient to commence registration in this military district until it shall be finally determined who may be registered. The first meetings of my boards of registration are appointed to be held on the fifteenth instant. (General Orders No. 18, headquarters second military district, dated 8th May, 1867.) Unless otherwise ordered, I shall, however, await the action of Congress upon the measures now understood to be under consideration, so that I may be prepared to issue precise and definitive instructions to the registers.

By the act of March 23, 1867, it is provided that the commanding general shall cause the registration to be made before the first day of September next. It is desirable, if not necessary, in view of the delay caused by the uncertainty as to the true intent and meaning of the act of Congress, to extend the time for the completion of the registration at least until the first day of October. Besides the considerations already mentioned, the great destitution prevailing in a large portion of my district, and the paramount importance of concentrating the attention and energies of the people upon the production of a good crop this year, have confirmed my impressions as to the expediency of deferring registration in the Carolinas until the crop can be "laid by" with safety to agricultural interests.

Very respectfully,

D. E. SICKLES,
Major General Commanding.

The ADJUTANT GENERAL,
Headquarters of the Army, Washington, D. C.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

General orders from the headquarters second military district, 1867.

[General Orders No. 1.]

HEADQUARTERS SECOND MILITARY DISTRICT,
(NORTH CAROLINA AND SOUTH CAROLINA,)
Columbia, S. C., March 21, 1867.

I. In compliance with General Orders No. 10, headquarters of the army, March 11, 1867, the undersigned hereby assumes command of the second military district constituted by the act of Congress, public number 68, 2d March, 1867, entitled "An act for the more efficient government of the rebel States."

II. In the execution of the duty of the commanding general to maintain the security of the inhabitants in their persons and property, to suppress insurrection,

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disorder, and violence, and to punish or cause to be punished all disturbers of the public peace, and criminals, the local civil tribunals will be permitted to take jurisdiction of and try offenders, excepting only such cases as may by the order of the commanding general be referred to a commission or other military tribunal for trial.

III. The civil government now existing in North Carolina and South Carolina is provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, extend or supersede the same. Local laws and municipal regulations not inconsistent with the Constitution and laws of the United States or the proclamations of the President, or with such regulations as are or may be prescribed in the orders of the commanding general, are hereby declared to be in force; and in conformity therewith civil officers are hereby authorized to continue the exercise of their proper functions, and will be respected and obeyed by the inhabitants.

IV. Whenever any civil officer, magistrate, or court neglects or refuses to perform an official act properly required of such tribunal or officer, whereby due and rightful security to person or property shall be denied, the case will be reported by the post commander to these headquarters.

V. Post commanders will cause to be arrested persons charged with the commission of crimes and offences, when the civil authorities fail to arrest and bring such offenders to trial, and will hold the accused in custody for trial by military commission, provost court, or other tribunal organized pursuant to orders from these headquarters. Arrests by military authority will be reported promptly. The charges preferred will be accompanied by the evidence on which they are founded.

VI. The commanding general, desiring to preserve tranquillity and order by means and agencies most congenial to the people, solicits the zealous and cordial co-operation of civil officers in the discharge of their duties, and the aid of all good citizens in preventing conduct tending to disturb the peace; and to the end that occasion may seldom arise for the exercise of military authority in matters of ordinary civil administration, the commanding general respectfully and earnestly commends to the people and authorities of North and South Carolina, unreserved obedience to the authority now established, and the diligent, considerate, and impartial execution of the laws enacted for their government.

VII. All orders heretofore published in the department of the south are hereby continued in force.

VIII. The following named officers are announced as the staff of the major general commanding:

Captain J. W. Clous, thirty-eighth United States infantry, acting assistant adjutant general and aide-de-camp.

Captain Alexander Moore, thirty-eighth United States infantry, aide-de-camp.

Brevet Major J. R. Myrick, first lieutenant third artillery, aide-de camp and acting judge advocate.

Major James P. Roy, sixth United States infantry, acting assistant inspector general.

Brevet Major General R. O. Tyler, deputy quartermaster general United States army, chief quartermaster.

Brevet Brigadier General W. W. Burns, major and commissary of subsistence United States army, chief commissary of subsistence.

Brevet Lieutenant Colonel Charles Page, Surgeon United States army, medical director.

D. E. SICKLES,
Major General Commanding.

Official:

J. W. CLOUS, *Aide-de-Camp.*

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[General Orders No. 5.]

HEADQUARTERS SECOND MILITARY DISTRICT,
(NORTH CAROLINA AND SOUTH CAROLINA,)
Charleston, S. C., April 1, 1867.

When an election for district, county, municipal or town officers is required to take place, in accordance with the provisions of the local law, within the limits of any post in this command, commanding officers will promptly report to these headquarters the time and place of such election and the designation of the offices to be filled.

If the present incumbents be ineligible to hold office, or any objection exist, arising out of their misconduct in office, to the continuance of their functions, the facts will be reported by the post commander, with his suggestions, having in view the interests of the service and the welfare of the locality immediately concerned.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Capt 38th U. S. Infantry, A. D. C. & A. A. A. G.

Official:

ALEXANDER MOORE, *Aide-de-camp.*

[General Orders No. 10.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., April 11, 1867.

The general destitution prevailing among the population of this military district cannot be relieved without affording means for the development of their industrial resources. The nature and extent of the destitution demand extraordinary measures. The people are borne down by a heavy burden of debt; the crops of grain and garden produce failed last year; many families have been deprived of shelter; many more need food and clothing; needful implements and auxiliaries of husbandry are very scarce; the laboring population in numerous localities are threatened with starvation, unless supplied with food by the government of the United States; the inability of a large portion of the people to pay taxes leaves the local authorities without adequate means of relief; and the gravity of the situation is increased by the general disposition shown by creditors to enforce, upon an impoverished people, the immediate collection of all claims.

To suffer all this to go on without restraint or remedy is to sacrifice the general good. The rights of creditors shall be respected; but the appeal of want and suffering must be heeded. Moved by these considerations, the following regulations are announced. They will continue in force, with such modifications as the occasion may require, until the civil government of the respective States shall be established, in accordance with the requirements of the government of the United States.

The commanding general earnestly desires and confidently believes that the observance of these regulations, and the co-operation of all persons concerned in employing fairly and justly the advantages still remaining to them, will mitigate the distress now existing; and that the avenues of industry, enterprise, and organization thus opened will contribute to the permanent welfare and future happiness of the people.

1. Imprisonment for debt is prohibited; unless the defendant in execution shall be convicted of a fraudulent concealment or disposition of his property,

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with intent to hinder, delay, and prevent the creditor in the recovery of his debt or demand. And the proceedings now established in North and South Carolina, respectively, for the trial and determination of such questions, may be adopted.

II. Judgments or decrees for the payment of money, on causes of action arising between the 19th of December, 1860, and the 15th of May, 1865, shall not be enforced by execution against the property or the person of the defendant. Proceedings in such causes of action, now pending, shall be stayed; and no suit or process shall be hereafter instituted or commenced, for any such causes of action.

III. Sheriffs, coroners, and constables are hereby directed to suspend for twelve calendar months the sale of all property upon execution or process, on liabilities contracted prior to the 19th of December, 1860, unless upon the written consent of the defendants, except in cases where the plaintiff, or in his absence his agent or attorney, shall upon oath, with corroborative testimony, allege and prove that the defendant is removing, or intends fraudulently to remove, his property beyond the territorial jurisdiction of the court. The sale of real or personal property by foreclosure of mortgage is likewise suspended for twelve calendar months, except in cases where the payment of interest money, accruing since the 15th day of May, 1865, shall not have been made before the day of sale.

IV. Judgments or decrees entered or enrolled, on causes of action arising subsequent to the 12th of May, 1865, may be enforced by execution against the property of the defendant; and in the application of the money arising under such executions regard shall be had to the priority of liens, unless in cases where the good faith of any lien shall be drawn in question. In such cases the usual mode of proceeding adopted in North and South Carolina, respectively, to determine that question, shall be adopted.

V. All proceedings for the recovery of money under contracts, whether under seal or by parole, the consideration for which was the purchase of negroes, are suspended. Judgments or decrees entered or enrolled for such causes of action shall not be enforced.

VI. All advances of moneys, subsistence, implements and fertilizers, loaned, used, employed or required for the purpose of aiding the agricultural pursuits of the people, shall be protected; and the existing laws which have provided the most efficient remedies in such cases for the lender will be supported and enforced. Wages for labor performed in the production of the crop shall be a lien on the crop, and payment of the amount due for such wages shall be enforced by the like remedies provided to secure advances of money and other means for the cultivation of the soil.

VII. In all sales of property under execution or by order of any court, there shall be reserved out of the property of any defendant, who has a family dependent upon his or her labor, a dwelling-house and appurtenances and twenty acres of land for the use and occupation of the family of the defendant; and necessary articles of furniture, apparel, subsistence, implements of trade, husbandry or other employment, of the value of five hundred dollars. The homestead exemption shall inure only to the benefit of families—that is to say, to parent or parents and child or children. In other cases, the exemption shall extend only to clothing, implements of trade or other employment usually followed by the defendant, of the value of one hundred dollars. The exemption hereby made shall not be waived or defeated by the act of the defendant. The exempted property of the defendant shall be ascertained by the sheriff, or other officer enforcing the execution, who shall specifically describe the same and make a report thereof in each case to the court.

VIII. The currency of the United States, declared by the Congress of the United States to be a legal tender in the payment of all debts, dues and demands, shall be so recognized in North and South Carolina. And all cases in which the same shall be tendered in payment, and refused by any public officer, will

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be at once reported to these headquarters or to the commanding officer of the post within which such officer resides.

IX. Property of an absent debtor, or one charged as such, without fraud, whether consisting of money advanced for the purposes of agriculture, or appliances for the cultivation of the soil, shall not be taken under the process known as "foreign attachment;" but the lien created by any existing law shall not be disturbed, nor shall the possession or the use of the same be in anywise interfered with, except in the execution of a judgment or final decree, in cases where they are authorized to be enforced.

X. In suits brought to recover ordinary debts, known as actions *ex contractu*, bail as heretofore authorized, shall not be demanded by the suitor, nor taken by the sheriff or other officer serving the process. In suits for trespass, libel, wrongful conversion of property, and other cases known as actions *ex delicto*, bail as heretofore authorized may be demanded, and taken. The prohibition of bail in cases *ex contractu*, shall not extend to parties about to leave the State; but the fact of intention must be clearly established by proof.

XI. In criminal proceedings, the usual recognizances shall be required and taken by the proper civil officers heretofore authorized by law to takethe same: *Provided*, That upon complaint being made to any magistrate or other person authorized by law to issue a warrant for breach of the peace, or any criminal offence, it shall be the duty of such magistrate or officer to issue his warrant upon the recognizance of the complainant to prosecute, without requiring him to give security on such recognizance.

XII. The practice of carrying deadly weapons, except by officers and soldiers in the military service of the United States, is prohibited. The concealment of such weapons on the person will be deemed an aggravation of the offence. A violation of this order will render the offender amenable to trial and punishment by military commission. Whenever wounding or killing shall result from the use of such weapons, proof that the party carried or concealed a deadly weapon, shall be deemed evidence of a felonious intent to take the life of the injured person.

XIII. The orders heretofore issued in this military department, prohibiting the punishment of crimes and offences by whipping, maiming, branding, stocks, pillory or other corporal punishment, are in force and will be obeyed by all persons.

XIV. The punishment of death in certain cases of burglary and larceny, imposed by the existing laws of the provisional governments in this military district, is abolished. Any person convicted of burglary; of larceny when the property stolen is of the value of twenty-five dollars; of assault and battery with intent to kill; or of any assault with a deadly weapon, shall be deemed guilty of felony, and shall be punished by imprisonment at hard labor for a term not exceeding ten years nor less than two years, in the discretion of the court having jurisdiction thereof. Larceny, when the value of the property stolen is less than twenty-five dollars, shall be punished by imprisonment at hard labor for a term not exceeding one year, in the discretion of the court.

XV. The governors of North and South Carolina shall have authority, within their jurisdictions respectively, to reprieve or pardon any person convicted and sentenced by a civil court, and to remit fines and penalties.

XVI. Nothing in this order shall be construed to restrain or prevent the operation of proceedings in bankruptcy, in accordance with the acts of Congress in such cases made and provided, nor with the collection of any tax, impost, excise, or charge levied by authority of the United States, or of the provisional governments of North and South Carolina; but no imprisonment for overdue taxes shall be allowed. Nor shall this order or any law of the provisional governments of North or South Carolina operate to deny to minor children, or children coming of age, or their legal representatives, nor to suspend as to them,

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any right of action, remedy, or proceeding against executors, administrators trustees, guardians, masters or clerks of equity courts, or other officers or persons holding a fiduciary relation to the parties or the subject-matter of the action or proceeding.

XVII. Any law or ordinance, heretofore in force in North or South Carolina, inconsistent with the provisions of this General Order, is hereby suspended and declared inoperative.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Capt. 38th Infantry, A. D. C. and A. A. A. General.

Official:

J. W. CLOUS, *Aide-de-Camp.*

[Circular.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., April 12, 1867.

In reply to several communications addressed to these headquarters, in reference to the proceedings of the civil authorities of South Carolina in the collection of taxes, the following letter of instruction from his excellency the governor, to the comptroller general, is published for the information of all concerned:

EXECUTIVE DEPARTMENT, SOUTH CAROLINA,
Columbia, February 19, 1867.

SIR: Upon conference with several of the tax collectors, as well as the attorney general, I am satisfied that the enforcement of the acts of the general assembly, according to their technical import, will be very oppressive to the poor who are unable to pay their taxes and have no property, and who, in such contingency, are required to be arrested and confined in jail until they do pay the execution; and it will impose a ruinous burden on the State to pay for dieting all who may be arrested. When once placed in jail, there is no power to release the delinquent until the legislature meets. In the present straitened condition of the finances of the State it must be avoided, and you are hereby directed to issue a notice to the sheriffs of the several districts, instructing them not to arrest and put in jail any delinquent in a tax execution, unless such sheriff, upon inquiry, shall be satisfied that he or she is fraudulently concealing property, or withholding money belonging to him or her; and that in every case where he believes the delinquent is unable for want of means to pay, the execution shall be so indorsed, and no proceedings further taken upon it.

I have the honor to be, very respectfully, yours, &c.,

JAMES L. ORR, *Governor.*

Hon. S. L. LEAPHART, *Comptroller General.*

The instructions of the governor will be carefully observed by sheriffs and all other officers. Sheriffs, or other officers charged with the execution of process for the collection of taxes, will be required to report to the commanding officer of the post in which their duties are performed, the names of all parties imprisoned for the non-payment of taxes, the amount of tax due, and the amount of costs and fees, together with the evidence showing that he or she is fraudulently concealing property or withholding money belonging to him or her.

Post commanders will see that the requirements of this circular are observed.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Capt. 38th Infantry, A. D. C. and A. A. A. General.

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[Circular.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., April 27, 1867.

In reply to letters received at these headquarters asking information as to the operation in particular cases of General Orders No. 10, current series, from these headquarters, I am directed by the commanding general to state that the provisions of the order will be interpreted and enforced by the courts. The order is to be deemed and taken as an ordinance having the sanction and authority of the United States for the regulation of certain civil affairs therein specified within so much of the territory occupied by the military forces of the United States, lately the theatre of war, as is embraced within the second military district created by act of Congress.

Although some of the former political relations of the inhabitants are in abeyance, their private relations, their persons and property, and their remedies for wrongs remain as heretofore—within the cognizance of the local tribunals, and subject to the laws of the provisional government hitherto in force, except so far as such laws are in conflict with the Constitution and laws of the United States, or with the regulations prescribed by the commanding general.

Among the consequences necessarily incident to the military authority established by Congress, and indispensable to the objects for which the authority is established, is the appointment and control of the civil agents by whom, and the measures by which the government *ad interim* is to be conducted. In the exercise of this authority, such regulations and appointments will be announced from time to time as may become necessary; and so far as these regulations concern the ordinary civil relations of the inhabitants, they will be administered by the courts and by the proper civil officers in the usual course of procedure.

While it will not be convenient to respond to particular inquiries made by citizens as to the interpretation and application of these regulations, such interrogatories will be answered, when addressed to the general commanding, by the appellate courts of law and equity.

J. W CLOUS,
Capt. 38th Infantry, A. D. C. and A. A. A. General.

Official:

ALEXANDER MOORE,
Aide-de-Camp.

[General Orders No. 18.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., May 8, 1867.

I. On the third Monday of July next, in obedience to the requirements of the act of Congress passed March 23, 1867, the commanding general will proceed and cause to be made a registration of the male citizens of the United States, twenty-one years of age and upwards, residents of North and South Carolina, not disfranchised for participation in the rebellion, or for felony at common law.

II. One or more boards of registration, consisting of three discreet and qualified persons, to be appointed by the commanding general, will be organized in each county or city, to make and complete the registration, superintend the election to be held thereafter for delegates to a convention to frame a constitution, and make returns to him of the votes, list of voters, and of the persons elected as delegates by a plurality of the votes cast at such election.

III. The counties in North Carolina, and the geographical districts in South

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Carolina, will, for the purposes of registration, be divided into convenient registration precincts. In each registration precinct a board of registers will, if practicable, be organized. Several places will be designated in each registration precinct where the board will meet and citizens eligible to registration may go and be registered. The board of registration will remain in session two days, from sunrise to sunset, at each place of meeting. On the adjournment of the board a copy of the list of persons registered will be deposited in a suitable place within the precinct seven days, for public information. And thereafter the board will again visit every precinct, and revise the list of voters, hear objections from citizens as to any adjudication made, and register any person who may have been unable, by reason of illness or other good and sufficient cause, to attend the first session of the board.

IV. All persons appointed to make the said registration of voters and to conduct said election will be required, before entering upon their duties, to take and subscribe the oath prescribed by the act approved July 2, 1862, entitled "An act to prescribe an oath of office." And if any person shall falsely take and subscribe such oath or affirmation, such person so offending and being duly convicted thereof shall be subject to the pains, penalties, and disabilities which, by law, are provided for the punishment of the crime of wilful and corrupt perjury. The form of the oath is herewith published, as follows:

"I, A. B., do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign or domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God."

V. Members of the boards of registration will be allowed as compensation four dollars a day for each day actually and necessarily employed in the performance of their duties, and ten cents a mile for each mile travelled on duty. Officers of the army detailed for such duty will be paid the per diem and mileage allowed for attendance on courts martial.

VI. Any citizen desiring to serve as a member of a board of registration may forward his application to these headquarters, addressed to Captain Alexander Moore, A. D. C. No application will be considered unless accompanied by a written recommendation signed by either the provisional governor of the State, a judge of the circuit or district court of the United States, a collector or other principal officer of customs or of internal revenue, the assistant commissioner of the Freedmen's Bureau, or the commanding officer of the military post within which the applicant resides, certifying the applicant to be a fit and proper person to receive the appointment.

VII. It is essential that every board of registration should be composed of persons of recognized consideration and worth, fairly representing the population, and in whose impartiality and capacity the body of voters in the vicinage may have just reliance.

VIII. The boundaries of precincts for registration, the several places within each precinct where the board of registration will meet, the day or days on which the board will meet in each precinct, and, also, such regulations as may be necessary for the government of registers and of inspectors of election in

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the discharge of their duties and to insure the accuracy and completeness of the registration, will be duly published for general information.

IX. Post commanders will report without delay upon the most expedient division of the territory within their commands into registration precincts, having reference, when practicable, to existing laws and customs establishing the usual voting places, and keeping in view the importance of affording ample facilities for registration with the least interruption of the ordinary avocations of the people.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Capt. 38th Infantry, A. D. C. and A. A. A. General.

Official:

ALEXANDER MOORE, *Aide-de-Camp.*

[General Orders No. 19.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., May 9, 1867.

All persons in this department employed or concerned at any time in seizing, holding, or disposing of real or personal property, goods, chattels, shares in any bank, railroad, or other corporation, bonds, mortgages, notes, bills, or assets of any kind, sequestrated by the late so-called confederate government, are required without delay to report in writing to these headquarters their action, specifying the kind and amount of property sequestrated, the time and place of sequestration, and the names of the original owners, and of the parties by whom property is now held.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Capt. 38th Infantry, A. D. C. and A. A. A. General.

Official:

ALEXANDER MOORE,
Capt. 38th Infantry, Aide-de-Camp.

[Circular.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., May 15, 1867.

Paragraph XII of General Orders No. 10, current series, from these headquarters, does not prohibit the use of fowling-pieces for hunting game upon one's own premises.

Commanding officers of posts are authorized, upon good and sufficient cause shown, to grant permission to public officers to carry arms when absolutely necessary in the discharge of their duties; such permission to be in writing, in each case, and to be revoked when abused.

Commanding officers of posts, to be associated with one or more commissioned officers on duty at the post, next in rank, when practicable, are constituted military tribunals for the trial of all persons within the limits of their commands charged with violating paragraph XII of General Orders No. 10, and paragraph X of General Orders No. 12, current series, from these headquarters. The proceedings in such cases to be forwarded to these headquarters for approval.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Capt. 38th Infantry, A. D. C. and A. A. A. General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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[Circular.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., May 18, 1867.

Section 6 of the act to provide for the more efficient government of the rebel States declares that no person shall be eligible to any office under the provisional governments who would be disqualified from holding office under the provisions of the third article of the constitutional amendment. The oath prescribed in section 1 of the supplemental act is framed to meet the requirements of the 6th section of the original act, and must be taken and subscribed by all persons appointed to office by any authority under the provisional governments in North and South Carolina. The question whether or no any particular person may or not take the oath is, apart from the legal meaning of the words of the oath, a question of conscience for such person, he best knowing his own acts and doings and the intent and purpose thereof.

Post commanders should assure themselves that their nominees are eligible, competent and willing to take the prescribed oath of office.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Capt. 38th Infantry, A. D. C. and A. A. A. General.

Official:

ALEXANDER MOORE,
Capt. 38th Infantry, Aide-de-Camp.

[General Orders No. 25.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C, May 20, 1867.

It appears from sundry petitions and official representations that the present scanty supply of food in the Carolinas is seriously diminished by the large quantity of grain consumed in numerous distilleries, put up and worked in defiance of the revenue laws of the United States; it is represented that few or none of the requirements of law are observed in any of these establishments; that the officers of the internal revenue service, while endeavoring to assess and collect the whiskey tax, are frequently treated with disrespect, and sometimes menaced with violence, and that when offenders are prosecuted in the civil courts and violations of the internal revenue laws indisputably proved, juries fail to convict the parties. It is further shown that this unlawful traffic makes food dearer in places where large numbers are depending upon public and private bounty; that the government is, besides, defrauded of a large amount of revenue; that the authority of its civil officers is brought into contempt; and furthermore, that the mischief complained of tends to increase poverty, disorder, and crime. Therefore, in the exercise of the authority vested in the commanding general, it is ordered that—

I. The distillation or manufacture of whiskey or other spirits from grain is prohibited in this military district. Any person so engaged or employed will be deemed guilty of a misdemeanor. The possession of a still or other apparatus for this purpose will be considered presumptive evidence of a violation of the revenue laws, and the party or parties using the same, or on whose premises or in whose possession the same may be found, will be arrested and brought to trial before a military tribunal composed of the commanding officer of the post and two officers of the army next in rank on duty within the territorial limits of the post. If the exigencies of the service do not permit the detail of other officers, that fact will be duly certified, and the post commander will hear and determine the case.

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II. The penalties, punishments, and forfeitures prescribed by the several acts of Congress for distilling or manufacturing whiskey or other spirits in violation of the revenue laws will be imposed and executed by the military tribunals hereby authorized.

III. No sentence extending to imprisonment, forfeiture of stills, liquor or other property, or the imposition of a fine or other penalty, will be carried into effect until reported to these headquarters and approved by the commanding general.

IV. All troops of the United States, magistrates, sheriffs, constables, police, and others in authority are required, and all citizens are solicited, to be vigilant in detecting and prompt in giving information of the violation of these orders. Commanding officers will be held responsible for their enforcement.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Capt. 38th Infantry, A. D. C. and A. A. A. General.

Official:

ALEXANDER MOORE,
Captain Thirty-eighth Infantry, Aide-de-Camp.

[General Orders No. 32.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., May 30, 1867.

I. Any citizen, a qualified voter according to the requirements of the "Act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the act supplementary thereto, passed March 23, 1867, is eligible to office in the provisional government of North and South Carolina. All persons appointed to office will be required to take the oath prescribed by the act aforesaid, and to file the same, duly subscribed and sworn, with the post commander.

II. All citizens assessed for taxes and who shall have paid taxes for the current year are qualified to serve as jurors. It shall be the duty of the proper civil officers charged with providing lists of jurors to proceed within their several jurisdictions, without delay, and ascertain the names of all qualified persons and place them on the jury lists, and from such revised lists all jurors shall be hereafter summoned and drawn in the manner required by law.

III. All citizens are eligible to follow any licensed calling, employment, or vocation, subject to such impartial regulations as may be prescribed by municipal or other competent authority not inconsistent with common right and the Constitution and laws of the United States. The bond required as security shall not exceed the penal sum of one hundred dollars. One or more sureties, being citizens and worth in the aggregate double the amount of the bond over and above just debts, will be sufficient.

IV. The mayors of cities and other municipal and town officers, and all sheriffs, magistrates, and police officers are required to be vigilant and efficient in maintaining order, and in the discharge of their duties they will be expected to co-operate with the military authorities.

V. Post commanders may summon to their aid, whenever the ordinary means at their disposal shall not be sufficient to execute their orders, such of the civil officers and as many of the citizens within the territorial limits of the military post as may be necessary; and the neglect or refusal of any person to aid and assist in the execution of the orders of the commanding officer will be deemed a misdemeanor, punishable by such fine and imprisonment as may be imposed by a military tribunal, approved by the commanding general.

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VI. No license for the sale of intoxicating liquors in quantities less than one gallon, or to be drank on the premises, shall be granted to any person other than an inn-keeper. The number of such licenses shall be determined, and the fees to be charged for each license shall be prescribed and collected by the municipal or town authorities, and appropriated exclusively for the benefit of the poor. If any person shall be found drunk on the premises where liquor is sold, the license may be revoked by any magistrate. The tax imposed by the internal revenue laws of the United States is an additional charge, and does not excuse the party from the observance of local regulations, nor exempt him from the payment of such other license fees as may be imposed by municipal or other competent authority.

VII. All contracts hereafter made for the manufacture, sale, or transportation, storage, or insurance of intoxicating liquors, shall, within this military district, be deemed and treated as against public policy, and no civil action, suit, or proceeding for the enforcement of any such contract shall be entertained in any court.

VIII. In public conveyances, on railroads, highways, streets, or navigable waters, no discrimination because of color or caste shall be made, and the common right of all citizens therein shall be recognized and respected. The violation of this regulation will be deemed a misdemeanor, and render the offender liable to arrest and trial by a military tribunal to be designated by the commanding general, besides such damages as the injured party may sue for and recover in the civil courts.

IX. The remedy by distress for rent is abolished. Where lands are leased or let out for hire or rent, cotton, corn, or other produce of the same, when severed from the land, may be impounded, but the same shall not be removed; and cotton, corn, or other produce so impounded shall be held as security for the rent or hire so claimed, and may be sold in satisfaction of any judgment for the same: *Provided*, That any unsatisfied claim for labor bestowed upon the cultivation of such cotton, corn, or other produce shall in no case be postponed to any demand for rent or hire; but to the extent of such claim for labor there shall be a lien on such cotton, corn, or other produce, having preference over any claim for rent or hire.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Capt. 38th U. S. Infantry, A. D. C. and A. A. A. General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Orders No. 33.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., May 30, 1867.

The following named persons are hereby appointed and constituted a board to report for the consideration and the action of the commanding general needful arrangements, rules, regulations and forms of proceeding for registration:

Brevet Colonel W. B. Royall, United States army, major fifth cavalry, chief of the Bureau of Civil Affairs, president; H. H. Helper, of Salisbury, North Carolina; Jefferson Fisher, of Raleigh, North Carolina; J. W. Cardoza, of Charleston, South Carolina; Lemuel Boozer, of Lexington, South Carolina.

The board will convene and organize at the citadel in Charleston, on the 7th day of June, 1867, and sit from day to day until dissolved by orders from these headquarters.

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The board will choose from their number a recorder of their proceedings, and may employ a clerk, whose compensation shall not exceed three dollars a day.

The commanding officer of the citadel will provide suitable apartments for the meetings of the board.

The assistant adjutant general will provide, on the requisition of the recorder of the board, approved by the president, such stationery, books, and printing as may be required, having a due regard to economy and the despatch of business.

The compensntion of the members (civilians) will be six dollars a day, and commutation at the rate of ten cents a mile for each mile travelled, taking the nearest usual route from their respective places of residence to and from Charleston.

By command of Major General D. E. Sickles :

J W. CLOUS,
Capt. 38th Infantry, A. D. C. and A. A. A. General.

Official :

E. D. TOWNSEND,
Assistant Adjutant General.

[General Orders No. 34.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., June 3, 1867.

I. Sheriffs, chiefs of police, city marshals, chiefs of detectives and town marshals of the several districts, counties, cities, towns, and other municipal organizations, in North Carolina and South Carolina, will at once, by letter, report to Brevet Colonel Edward W. Hinks, United States army, provost marshal general of the second military district, Charleston, South Carolina, setting forth in the report the name of each officer, his residence, official station, duties, post office address, salary per annum, and the authority by whom appointed. Coroners, constables, and other officers, in this military district, whose duty it is to make arrests, and who are not included in the force of any sheriff, chief of police, city marshal, chief of detectives, or town marshal, will make individual reports to the provost marshal general in like manner and form as above required.

II. Whenever any homicide, rape, mayhem, felonious assault, burglary, arson, robbery, or larceny—where the property stolen is of the value of twenty-five dollars and more—shall be committed within any city or town in this military district, the chief officer of police of such city or town shall at once investigate the case and report the facts to the provost marshal general, setting forth the nature of the crime, the name and residence of the party against whose person or property such crime has been committed, the time when and place where it was committed, the name, description and residence of the offender, if known ; and if the offender has been arrested, stating what steps have been taken to secure his punishment; and if not in custody, giving any information which may be of service in securing his detection and arrest. Sheriffs of counties in North Carolina and of districts in South Carolina shall investigate and make report of such offences, when committed within their respective counties or districts and not within the limits of any city or town, in like manner and form as is herein required of chiefs of police of cities and towns. When an offender, whose offence has been reported, shall be arrested, report of the arrest will be made at once by the officer in charge to the provost marshal general.

Consolidated monthly reports of the above enumerated crimes will also be made by the respective officers, and for the localities above designated, to the provost marshal general. Blanks will be furnished by him upon application. The first report to include the period from January 1 to May 31, 1867.

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III. Whenever any prisoner shall break and escape from a penitentiary, jail, or other prison, in the second military district, the officer in charge of such penitentiary, jail, or other prison shall at once make report of the facts to the provost marshal general, setting forth in such report the date of escape, the name of each escaped prisoner, his description, age, residence, the crime for which committed, whether under sentence or awaiting trial, whether recaptured; and stating fully the manner of the escape and the circumstances under which it was effected. Reports in like form and manner will be made by all officers from whose custody prisoners may escape while being conducted to or from a prison. Whenever a prisoner shall be recaptured the fact will be at once reported to the provost marshal general, by the officer from whose custody the prisoner escaped. Failure to make prompt report of escaped prisoners as herein required will inculpate the delinquent officer as aiding and abetting the escape.

IV. The sheriffs of counties in North Carolina, and of districts in South Carolina, will at once report to the provost marshal general the condition of the jails, prisons or workhouses under their charge, or in their respective districts or counties, as to capacity, convenience and security, and the names and residences of the officers responsible for the condition and care of such jails, prisons and workhouses.

V. All civil officers having charge of any jail, prison or workhouse, in this military district, shall, on the last day of each month, make a report to the provost marshal general, upon blanks to be by him prescribed, and furnished upon application, of all persons who have been confined in such jail, prison or workhouse during the month, setting forth the name of the prisoner, his description, residence, age, when committed, for what offence arrested, by whom arrested, by whose order arrested, whether under sentence or awaiting trial; if under sentence, by what tribunal tried and sentenced; if sentenced, for what period and the amount of fine or costs if any; how employed; how subsisted; whether discharged, transferred, escaped or deceased; if discharged, by what authority; if transferred, to what place and by whom ordered. The first report made under the requirements of this paragraph will include the peri od from January 1 to May 31, 1867.

VI. All sheriffs, constables, police and other civil officers and persons, whose duty it is under the laws of the provisional governments of North Carolina and South Carolina to serve writs or make arrests, are hereby required to obey and execute the lawful orders of the provost marshal general, to the same effect as they are required by law to obey and execute writs, warrants, or other process issued by civil magistrates. And any resistance to or disobedience of the lawful orders or authority of the provost marshal general shall subject the offender to trial by a military commission, and, upon conviction, to removal from office and punishment by fine and imprisonment.

VII. Duplicates of the reports required by the provisions of paragraphs II, III and V of this order, to be made by local officers to the provost marshal general, will at the same time be sent to the proper post commander.

VIII. The performance of the duties enjoined by this order will not be construed to relieve civil officers from the discharge of any of the duties now required of them by the laws of the local provisional governments. And any civil officer who shall refuse or neglect to perform promptly the duties herein required of him, or who shall make any false return or report of the matters herein prescribed, shall be dismissed from his office, and be subject to trial by military commission for misdemeanor.

IX. Sheriffs, constables and other officers, whose official emoluments are confined to costs and fees, shall be allowed for services performed under the orders of the provost marshal general the same costs and fees, to be paid in the same manner, as is provided by the laws of the local provisional governments for like service under those laws.

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X. All persons in this military district, who may know of any threatened breach of the peace, or of the commission of any crime or offence, are requested to make complaint thereof at once to the chief of the police, or marshal of the city or town; or, if the crime or disorder shall be committed without the limits of any city or town, to a magistrate or the sheriff of the county or district; and, if prompt action shall not be taken by the officer to whom the matter shall be reported, such persons are requested to report all the facts to the post commander and to the provost marshal general.

XI. Imprisonment for default in payment of costs, fees or charges of court, attorneys or public officers, shall not exceed thirty days.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Capt. 38th Infantry, A. D. C. and A. A. A. General.

Official:

J. W. CLOUS,
Capt. 38th Infantry, A. D. C. and A. A. A. General.

[Circular.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., June 17, 1867.

In the execution of paragraphs VI any VII of General Orders No. 32, current series, post commanders will be governed by the following instructions:

An inn is a place where food and lodging are provided and furnished for pay to travellers and sojourners.

Municipal and town authorities may grant to inn-keepers licenses to sell liquors in quantities less than one gallon to be drank on the premises. In determining the number of such licenses it is expected that due regard will be observed to the actual occasion for tavern accommodations, so that no evasion of the order be permitted by an unnecessary increase of the present number of inns. In any town where this occurs the authority to grant licenses will be revoked and the licenses granted annulled.

The order does not admit of any construction extending the privilege to apothecary shops, ice-cream saloons, eating-houses, or other places.

The civil authorities to whom license money has been paid will determine for themselves whether they will refund to licensees the whole or any part of the money received for licenses.

The order is operative on and after the date of its publication. Post commanders, in the exercise of their discretion, may extend the time until the first day of July next.

The military tribunals constituted by circular dated May 15, 1867, from these headquarters, will have cognizance of all violations of paragraphs VI and VII of General Orders No. 32, current series. The proceedings will be forwarded by the post commander to these headquarters for review and final action.

Where by law or municipal regulation the proceeds of licenses are devoted to the maintenance of common schools, open to all without discrimination against color or caste, the proceeds of the licenses now authorized may be applied either to such schools or to the support of the poor, in the discretion of the civil authorities.

All laws or parts of laws, or municipal regulations inconsistent with the provisions of General Orders No. 32, or of this circular, are suspended, and will be deemed and held inoperative.

The authority to revoke licenses when drunkenness or disorderly conduct is

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permitted in or about premises where liquor is sold, may be exercised by post commander or by any magistrate of the vicinage on proof of the offence.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Capt. 38th Infantry, A. D. C. and A. A. A. General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Circular.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Citadel, Charleston, S. C., June 21, 1867.

I. Whenever the geographical limits of a county in North Carolina or district in South Carolina are so extensive as to render it impracticable for the sheriff to perform promptly the duties required of him by paragraph II, General Orders No. 34, the sheriff will assign deputy sheriffs to the performance of those duties in sub-districts, parishes, or beats, to be by him defined, and report his action to the provost marshal general. Upon the approvalby the provost marshal general of such assignment, the officer so assigned will make the investigations and reports required in the above cited order to be made by sheriffs, and will be held accountable for the prompt and efficient performance of such duties within the limits of said sub-district, parish, or beat.

II. Sheriffs and other civil officers whose official emoluments are confined to costs and fees, will, for all services performed under the requirements of military orders, render to the provost marshal general's office monthly accounts properly attested under oath, where they will be audited and payment ordered by the proper authority.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Capt. 38th Infantry, A. D. C. and A. A. A. General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Special orders from headquarters second military district, 1867.

[Special Orders No. 6.]

HEADQUARTERS SECOND MILITARY DISTRICT,
(NORTH CAROLINA AND SOUTH CAROLINA,)
Charleston, S. C., March 29, 1867.

I. The municipal elections in the town of Tarboro', North Carolina, which the charter of that town directs to be held on Monday, the first of April, 1867, is hereby ordered to be suspended until the necessary preparations can be made to execute the provisions of the act of Congress of March 2, 1867, concerning the elective franchise and qualifications for office.

II. Brevet Captain Charles Snyder, first lieutenant 8th infantry, commanding post of Goldsboro', North Carolina, will furnish an official copy of this order to the sheriff at Tarboro', B. T. Hart, and one to each of the civil officers whose duties in connection with this election are suspended by this order. The post

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commander will continue the present incumbents in office until further orders, giving them due notice. If any of them be not eligible under the acts of Congress, Captain Snyder will report the names of suitable successors.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Capt. 38th Infantry, A. D. C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 8.]

HEADQUARTERS SECOND MILITARY DISTRICT,
(NORTH CAROLINA AND SOUTH CAROLINA.)
Charleston, S. C., April 1, 1867.

I. In the case of Henderson Cooper, a freedman, now in the jail of Granville county, North Carolina, sentenced to be hung for rape on the 5th of April, 1867, it appears that the sentence was imposed during the rebellion, by the superior court of Granville county, North Carolina, on the 6th of March, 1865, but not executed in consequence of the escape of the prisoner to Washington, District of Columbia, on the 19th day of the same month; that the sentence was reaffirmed without trial at the spring term, 1867, of the superior court of Granville county, North Carolina; that the prisoner was tried and convicted by a court not recognized by the United States; that the prisoner escaped from the custody of persons engaged in armed rebellion against the United States; that he was pursued and recaptured in Washington, District of Columbia, on the 25th of October, 1866, after the surrender of the rebel forces, and without due process of law; and it is hereby ordered that the sentence and all the proceedings in the case be and they are hereby revoked and declared null and void.

And it further appearing that grave doubts of the prisoner's guilt and of the fairness of his trial are suggested by Colonel J. V. Bomford, eighth United States infantry, commanding military district of North Carolina, and Brevet Brigadier General R. Avery, inspector Freedmen's Bureau, who have investigated the transaction, and who have accordingly forwarded the case to these headquarters as a fit and proper one for the exercise of clemency, the commanding officer of the district of North Carolina will at once take Henderson Cooper, freedman, in military custody, investigate the allegations against him, and report what further action is in his judgment necessary and proper.

The commanding officer of the military district of North Cnrolina will furnish an official copy of this order to the governor of North Carolina, the superior court and sheriff of Granville county, North Carolina, and the prisoner.

II. In the case of Robert Davis, convicted of burglary at the fall term, 1866, of the superior court of Guilford county, North Carolina, and sentenced to be hung on Friday, the 5th of April, 1867, it appears from the report of the assistant commissioner of the Freedmen's Bureau for North Carolina that his excellency the governor deems the case a proper one for the exercise of clemency, and that the commanding officer of the United States forces in North Carolina concurs in that opinion; that by the laws of North Carolina the governor has no authority to commute the sentence to imprisonment; and that no alternative remains, in conformity with the local laws, except the execution of the sentence of death, or a full pardon. It is ordered that the sentence of the said Robert Davis be and the same is hereby commuted to imprisonment at hard labor for the term of ten years, and that the place of his confinement be designated by the governor of North Carolina.

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The commanding officer of the military sub-district of North Carolina, Colonel J. V. Bomford, will furnish an official copy of this order to the governor of North Carolina, the sheriff of Guilford county, and the prisoner.

By command of Major General D. D. Sickles:

J. W. CLOUS,
Capt. 38th Infantry, A. D. C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 12.]

HEADQUARTERS SECOND MILITARY DISTRICT,
(NORTH CAROLINA AND SOUTH CAROLINA,)
Charleston, S. C., April 7, 1867.

I. The telegraphic instructions from these headquarters of this date, addressed to the commanding officer of the post of Columbia, viz:

"Application having been made to these headquarters to afford military protection to a public meeting of Lexington district, to be held at Lexington at 2 (two) o'clock on the afternoon of Tuesday next, you will detail one company of your command to march to that place at daylight to-morrow, with four days' cooked rations. Having discharged that duty, the company will return to Columbia on Wednesday next,"—are hereby confirmed.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Capt. 38th Infantry, A. D. C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official;

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 15.]

HEADQUARTERS SECOND MILITARY DISTRICT,
(NORTH CAROLINA AND SOUTH CAROLINA,)
Charleston, S. C., April 10, 1867.

I. It appearing upon the report of the commanding officer of the post of Wilmington that Sergeant Aldridge and Private Cowan, of the police of Wilmington, have shown a want of discretion and judgment in the discharge of their duties, and have exhibited unnecessary and unwarranted violence in making arrests, they are hereby removed from office.

The marshal of Wilmington, in filling these and other vacancies, will be admonished by the post commanders to select trustworthy persons.

II. It appearing from numerous complaints, which, upon investigation, seem to have sufficient foundation, that the organization of the police of Wilmington, as now constituted and directed, requires modification for the purpose of insuring greater impartiality and discretion in the selection and government of the men comprising the force, it is ordered that the commanding officer of the post assume control of the police of Wilmington; that the marshal shall hereafter report to the post commander for orders; and that all removals and appointments

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to be made therein shall be first submitted to these headquarters, through the post commander, with his remarks and recommendations.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Capt. 38th Infantry, A. D. C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 21.]

HEADQUARTERS SECOND MILITARY DISTRICT,
(NORTH CAROLINA AND SOUTH CAROLINA,)
Charleston, S. C., April 18, 1867.

I. It having become apparent that justice to freedmen cannot be obtained in the civil courts within the military post of Aiken, South Carolina, consisting of Edgefield and Barnwell districts, a provost court is hereby established at the post of Aiken, South Carolina, to consist of First Lieutenant William Stone, forty-fifth United States infantry, presiding, together with Second Lieutenant Edward P. Doherty, fifth United States cavalry, and A. Ramsay, esq., of Edgefield district, South Carolina, associates.

II. The court shall have jurisdiction over any case to which a person of color is a party, except murder, arson, and rape. Sentences imposing fines exceeding one hundred ($100) dollars, or imprisonment exceeding two months, will not be executed until approved at these headquarters. The court will carefully observe the requirements of General Orders No. 10, current series, from these headquarters.

III. The provost court may, upon application of any person of color, sued or prosecuted in any civil court in Edgefield or Barnwell district, order the transfer of such case to the provost court.

IV. The proceedings of the court in each case, will be forwarded to the post commander for revision and approval; appeals to these headquarters from the decision of the post commander will not be considered unless accompanied by printed arguments of the parties or their counsel.

V. The compensation of the civilian judge or judges will be four dollars a day; the court may employ a clerk at a compensation not exceeding three dollars a day, and purchase stationery. All the expenses of the court must be paid out of the funds accruing from fines and costs paid by parties tried before it.

VI. At the end of each month a return of all fines and expenditures, with vouchers, will be made by the court to the post commander, and by him forwarded to these headquarters.

VII. So much of General Orders No. 102, Department of the South, 24, 30, 38, 49, 55, 59, and 68, Department of South Carolina, series of 1865, General Orders Nos. 7 and 37, Department of South Carolina, and Circular No. 2, Department of the South, series of 1866, as does not conflict with this order, is still in force.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Capt 38th Infantry, A. D. C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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[Special Orders No. 23.]

HEADQUARTERS SECOND MILITARY DISTRICT,
(NORTH CAROLINA AND SOUTH CAROLINA,)
Charleston, S. C., April 20, 1867.

I. Special Orders No. 21, current series, from these headquarters, which established a provost court within the military post of Aiken, South Carolina, are hereby so modified that no sentence affecting the liberty of any person shall be executed until it is approved by the commanding general; and it is further ordered that white persons charged with murder, manslaughter, rape or arson, on the persons or property of persons of color, and persons of color charged with like offences against the persons or property of white persons, will be brought to trial by a military commission; the accused will be taken into military custody and the evidence in the case, with charges, forwarded to these headquarters.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Capt. 38th Infantry, A. D C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 28.]

HEADQUARTERS SECOND MILITARY DISTRICT,
(NORTH CAROLINA AND SOUTH CAROLINA,)
Charleston, S. C., April 27, 1867.

I. The election for mayor and councilmen, and for trustees of the academy of Newbern, North Carolina, appointed to be held by the act of incorporation, on the first Monday in May next, is hereby suspended.

The following appointments are announced for the city of Newbern, North Carolina:

John H. Washington, esq., mayor of the city, (present incumbent.)

Members of the city council.

1st ward. A. H Foster, to fill an original vacancy.
2d ward. A. H. Seymour, vice Alexander Justice, whose term of office expires.
3d ward. Benjamin Jacob, vice William H. Oliver, whose term of office expires.
4th ward. Samuel Radcliffe, vice J. J. Robertson, whose term of office expires.
5th ward. E. Hubb, vice James Osgood, whose term of office expires.
6th ward. Edward R. Stanley, present incumbent.
7th ward. H. J. Memminger, present incumbent.

To be trustees of the Newbern academy.

Edward R. Stanley, esq., present incumbent.
H. J. Memminger, esq., vice J. T. Hough, whose term of office expires.

The officers hereby appointed, and all persons holding office under the corporation of Newbern, or the trustees of the Newbern academy, will, before

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entering upon the duties of their respective offices, in addition to the oath of office required by the laws of North Carolina, and the ordinances of the corporation of Newbern, take and subscribe the oath set forth in General Orders No. 33, War Department, Adjutant General's Office, Washington, 28th March, 1867, (section 1st of the act supplementary to an act to provide for the more efficient government of the rebel States, and to facilitate restoration, passed 23d March, 1867.) The oath of office shall be subscribed in duplicate, and one copy of said oath or affirmation, duly subscribed by the party and attested by a magistrate or other officer authorized to administer oaths, will be filed in the mayor's office, and another copy with the post commander.

The commanding officer of the post of Newbern is charged with the execution of this order.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Capt. 38th Infantry, A. D. C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 30.]

HEADQUARTERS SECOND MILITARY DISTRICT,
(NORTH CAROLINA AND SOUTH CAROLINA,)
Charleston, S. C., April 29, 1867.

* * * * *

III. The following telegram this day addressed from these headquarters to Brevet Lieutenant Colonel R. T. Frank, captain eighth infantry, commanding post of Wilmington, North Carolina, viz: "It is represented that the ceremonies announced to take place on the first of May next at Oak Dale may be made an occasion for a public demonstration, procession, speeches, &c., tending to revive feelings of hatred and resentment against the government of the United States and the land and naval forces heretofore engaged in suppressing the rebellion. Such proceedings will not be permitted. This order is not intended to interfere with the customary inoffensive observances to the memory of deceased relatives and friends"—is hereby confirmed.

* * * * *

By command of Major General D. E. Sickles:

J. W. CLOUS,
Capt. 38th Infantry, A. D. C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 37.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., May 7, 1867.

* * * * *

II. Upon the application of the marshal of the city of Wilmington, approved and recommended by Brevet Lieutenant Colonel R. T. Frank, Captain

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eighth infantry, commanding post, policeman J. C. Guttingburg will be discharged from the police force of the city of Wilmington, for disreputable conduct in obtaining money from a citizen under false pretences.

* * * * * *

By command of Major General D. E. Sickles:

J. W. CLOUS,
Captain 38th Infantry, A. D. C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 38.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., May 8, 1867.

* * * * * *

IV. The action of the commanding officer post of Newbern, North Carolina, appointing—subject to the approval of the major general commanding—Phineas Menvin, trustee of the Newbern Academy, *vice* W. H. Oliver, whose term of service expired, is hereby approved.

* * * * * *

By command of Major General D. E. Sickles:

J. W. CLOUS,
Captain 38th Infantry, A. D. C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 44.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., May 15, 1867.

* * * * * *

III. It appearing that W. Lankford, a clergyman, married certain persons who had proper license from the clerk of the county of Buncombe, North Carolina, that it afterwards came to light that one of the parties so married was of mixed blood, in consequence of which an action was brought against the clergyman named for having married these parties in violation of a State law of North Carolina; and it further appearing that W. Lankford acted honestly, and that the clerk of the county is the person responsible; upon the recommendation of the post commander, it is ordered, that the proceedings in the case of Lankford be stayed.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Captain 38th Infantry, A. D. C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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[Special Orders No. 45.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., May 16, 1867.

I. The election for ordinary of Barnwell district, for the term commencing on June 11, 1867, is hereby suspended.

II. Upon the recommendation of the post commander, J. W. Freeman is hereby appointed ordinary for the district of Barnwell. Before entering upon the duties of his office, in addition to the oath required by the laws of South Carolina, he will take and subscribe the oath set forth in General Orders No. 33, War Department, Adjutant General's Office, Washington, March 28, 1867, (section 1 of the act supplementary to an act to provide for the more efficient government of the rebel States, and to facilitate restoration, passed 23d March, 1867.) The oath of office shall be subscribed in duplicate, and one copy of said oath or affirmation, duly subscribed by the party and attested by a magistrate or other officer authorized to administer oaths, will be filed in the office of the clerk of the court of common pleas and general sessions for Barnwell district, and another with the post commander.

The commanding officer post of Aiken is charged with the execution of this order.

* * * * * *

III. Upon the recommendation of the commanding officer, post of Newbern, North Carolina, the following named commissioners of the town of Newport, Carteret county, North Carolina, are hereby removed from office, viz: E. S. Perkins, J. T. Dennis, and C. C. Mann.

The following appointments of commissioners for the town of Newport, Carteret county, North Carolina, are hereby announced: W. W. Ward and E. S. Garner.

The officers hereby appointed and all persons holding office under the corporation of Newport will, before entering upon the duties of their respective office, take and subscribe the oath of office required by the laws of North Carolina and the ordinances of the corporation of Newport, take and subscribe the oath set forth in General Orders No. 33, War Department, Adjutant General's office, Washington, 28 March, 1867, (section 1 of the act supplementary to an act to provide for the more efficient government of the rebel States, and to facilitate restoration, passed 23d March, 1867.) The oath of office shall be subscribed in duplicate, and one copy of said oath or affirmation duly subscribed by the party and attested by a magistrate or other officer authorized to administer oaths, will be filed in the mayor's office, and another copy with the post commander.

The commanding officer post of Newbern is charged with the execution of this order.

* * * * * *

By command of Major General D. E. Sickles:

J. W. CLOUS,
Captain 38th Infantry, A. D. C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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[Special Orders No. 49.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., May 20, 1867.

* * * * * *

III. The election for clerk of the court of common pleas and general sessions of Barnwell district for the term commencing on the 25th of July, 1867, is hereby suspended.

Upon the recommendation of the post commander, A. V. Eaves is hereby appointed clerk of the court of common pleas and general sessions for the district of Barnwell. Before entering upon the duties of his office, in addition to the oath required by the laws of South Carolina, he will take and subscribe the oath set forth in General Orders No. 33, War Department, Adjutant General's office, Washington, March 28, 1867, (section 1 of the act supplementary to an act to provide for the more efficient government of the rebel States and to facilitate restoration, passed 23d March, 1867.)

The oath of office shall be subscribed in duplicate, and one copy of said oath or affirmation, duly subscribed by the party and attested by a magistrate or other officer authorized to administer oaths, will be filed in the office of the clerk of the court of common pleas and general sessions for Barnwell district, and another with the post commander.

The commanding officer post of Aiken is charged with the execution of this order.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Captain 38th Infantry, A. D. C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE. *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 54.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., May 26, 1867.

* * * * * *

II. The testimony in the cases of the several parties arrested and held in custody, charged with participating in riotous and disorderly conduct in the streets and street-cars, having been forwarded to these headquarters, with the recommendations of the provost marshal of Charleston and the action of the post commander upon the same, it is ordered that the proceedings be, and they are hereby, approved.

Daniel Eckhard, Sidney McGuire, John Greene, Francis Hopkins, Cyrus Miller, William Price, and Moses Smith will be discharged.

In the case of William Arthur, in view of the period of his confinement awaiting trial, and the general good conduct of the colored population in trusting to the action of the authorities for the recognition and enforcement of their rights and privileges, it is believed that the ends of justice do not require the further prosecution of the offender, and he will be released.

In the cases of William Huger and John F. Stewart, charged with resisting and attacking the officers of the police in the performance of their duties—throwing missiles at the cars and inciting others to riotous conduct—charges will be preferred against them and sent to a military commission for trial.

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III. The testimony in the case of S. Calhoun Smith, of Charleston, supports the charge that, on the 27th of April last, he maliciously cut and mutilated a garrison flag, which had been loaned to the Charleston Hook and Ladder Company to decorate their truck for a parade. Indeed, the only circumstance in favor of the accused is his own acknowledgment of guilt, coupled with an avowal that the act was done in a moment of undue excitement, and an expression of sincere contrition for the offence. A petition for the pardon of Smith, addressed to the commanding general, has been received and considered with the respectful attention due to the representations of the prominent and influential citizens who have signed it. They affirm that the offence for which he is confined receives no countenance in the community, and the petitioners, in common with all good citizens, condemn it; the said petition, having been referred to Brevet Brigadier General H. B. Clitz, United States army, commanding the post of Charleston, has been returned with the depositions, proofs, and papers, and a recommendation that the accused be released from confinement and discharged from custody. It appearing that the further punishment of the accused is not necessary as an example, and that the confinement he has already undergone, added to the general condemnation of the community, will sufficiently admonish him of the consequences of misconduct, it is ordered that he be discharged.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Captain 38th Infantry, A. D. C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 55.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., May 27, 1867.

* * * * * *

V. A provost court is hereby established for the post of Fayetteville, embracing the counties of Cumberland, Harnett, Moore, Montgomery, and Richmond, N. C., to consist of W. H. Porter, esq., of Fayetteville, presiding; together with John D. Minor, esq., and M. A. Baker, esq., of Fayetteville, N. C., associate judges. The laws of North Carolina, not inconsistent with the laws of the United States or the orders of the commanding general, will govern the proceedings of the court.

1. The court shall have jurisdiction of any case not arising under the articles of war which may be referred to it by the post commander, except murder, manslaughter, rape, or arson. Sentences in criminal cases imposing fines or penalties exceeding one hundred ($100) dollars, or affecting the liberty of any person, shall not be executed until approved by the commanding general.

The court will carefully observe the requirements of General Order 10, current series, from these headquarters. Whenever, in the judgment of the post commander, persons charged with murder, manslaughter, rape, arson, or other crime, should be brought to trial before a military commission, the accused will be taken into military custody, and the evidence in the case, with charges, in due form, forwarded to these headquarters

2. The post commander, upon the application of any person sued or prosecuted in any civil court in Cumberland, Harnett, Moore, Montgomery, or Rich-

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mond counties, may order the transfer of the case to the provost court, upon satisfactory evidence that the ends of justice require such transfer.

3. The proceedings of the court in all cases will be forwarded to the post commander for review and approval. Appeals to these headquarters from the action of the post commander will not be considered unless accompanied by printed papers and arguments of the parties or their counsel, nor will any motion or appeal be heard *ex parte*.

4. The compensation of the civilian judge, or judges, will be four dollars a day. The court may employ a clerk at a compensation not exceeding three dollars a day, who shall keep a record of its proceedings. The expenses of the court must be borne out of the fund accruing from fines and costs paid by parties.

5. Simple rules and forms of procedure will be established by the court and published for general information.

6. At the end of each month a return of all receipts and expenditures, with vouchers, will be made by the court to the post commander, and by him forwarded to these headquarters.

VI. The following removals and appointments of civil officers in the town of Fayetteville, and in the county of Cumberland, N. C., are hereby announced:

1. For inefficiency in the discharge of his duties, the mayor of Fayetteville, N. C., Thomas G. Curtis, is hereby removed from office.

2. Charges having been preferred against Duncan G. McCrea for inciting a mob to murder a freedman at Fayetteville, N. C., on the 12th of February last, he is hereby suspended from office as special magistrate.

3. In order that a more efficient government for the town of Fayetteville may be organized, the following named civil officers are hereby removed from office, viz:

Town commissioners.—D. S. Maultsby, Murdock M. Kimmon, John C. Haigh, A. G. Thornton, Hector McKethan, John K. Robinson, Walter Draughton.

Town constables.—John C. Poe, Thomas H. Massey, James A. King, A. H. Whitfield.

Magistrates.—James W. Strange, Joseph Asey.

4. The following appointments are hereby announced for the town of Fayetteville, N. C., viz:

Mayor.—James R. Lee.

Board of town commissioners.—John W. Hopkins, John Reilly, Edward L. Pemberton, M. A. Baker, J. W. Lett, J. C. Poor, William H. Porter

Town constables.—Jacob Rarendon, S. A. Philips, Wiley Foot, Calvin McKay.

5. The following named persons are hereby appointed as magistrates for the county of Cumberland, viz: M. A. Baker, (special magistrate,) W. H. Porter, W. H. Tomlinson, J. W. Lett.

The officers hereby appointed, and all persons holding office under the corporation of Fayetteville, and in the county of Cumberland, N. C., will, in addition to the oath of office required by the laws of North Carolina, take and subscribe the oath set forth in General Orders No. 33, War Department, Adjutant General's office, Washington, March 28, 1867, (section 1 of the act supplementary to an act to provide for the more efficient government of the rebel States, and to facilitate restoration, passed March 23, 1867.) The oath of office shall be subscribed in duplicate, and one copy, duly attested by a magistrate or other officer authorized to administer oaths, will be filed with the post commander, and the other copy in the county or municipal office designated for that purpose by the laws and ordinances of North Carolina. The commanding officer of the post will report the names of such officers as do not qualify, and recommend suitable successors.

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The commanding officer of the post of Fayetteville is charged with the execution of this order. * * * * *

By command of Major General D. E. Sickles:

J. W. CLOUS,
Captain 38th Infantry, A. D. C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Orders No. 63.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., June 6, 1867.

I. Upon the recommendation of the commanding officer, post of Charleston, the following named appointments of civil officers are hereby made in the district of Berkely, South Carolina:

Magistrates.—Thomas Sims, parish of St. Andrews; Louis E. Johnson, Wadmalaw island, parish of St. John's Colleton; W. L. M. Burger, John's island, parish of St. John's Colleton; W. B. Cutter, John's island, parish of St. John's Colleton.

The officers hereby appointed will, in addition to the oath of office required by the laws of South Carolina, take and subscribe the oath set forth in General Orders No. 33, War Department, Adjutant General's office, Washington, March 28, 1867, (section 1 of the act supplementary to an act to provide for the more efficient government of the rebel States, and to facilitate restoration, passed March 23, 1867.) The oath of office shall be subscribed in duplicate, and one copy, duly attested by a magistrate or other officer authorized to administer oaths, will be filed with the post commander, and the other copy in the office of the clerk of the court of common pleas and general sessions, or such other office designated for that purpose by the laws and ordinances of South Carolina.

The commanding officer post of Charleston is charged with the execution of this order.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Captain 38th Infantry, A. D. C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 64.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., June 7, 1867.

I. It appearing by the report of Brevet Lieutenant Colonel G. A. Williams, United States army, major sixth United States infantry, commissary of musters second military district, that Ordnance Sergeants Kearney and Skillin, on duty in Forts Sumter and Moultrie, prior to the commencement of hostilities, did deposit certain funds in the Charleston Savings Institute, to wit, the said Sergeant Kearney, by his wife Johanna Kearney, in trust for him, seven hun-

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dred ($700) dollars, and the said Sergeant Skillin seven hundred and ten dollars and fifty cents, ($710 50;) and it further appearing that when preparations were made to attack the United States forces on duty in the defences of Charleston, the said sergeants demanded payment of their money from the paying teller of said savings institute, which was refused, and the said sums still remain due and unpaid; it is ordered that the treasurer of the Charleston Savings Institute pay over forthwith to the said Ordnance Sergeants James Kearney and James Skillin the amounts due them respectively on the 19th day of December, 1860, with interest and dividends per annum from that date to the time of payment, and that said amounts be paid in the lawful currency of the United States.

II. It appearing by the report of Brevet Lieutenant Colonel G. A. Williams, United States army, major sixth infantry, commissary of musters second military district, that James McMahon, on duty in Forts Sumter and Moultrie as a soldier in the United States army prior to the commencement of hostilities, did deposit certain funds in the Charleston Savings Institute, to wit, the sum of two hundred (200) dollars; and it further appearing that when preparations were made to attack the United States forces on duty in the defences of Charleston, the said McMahon demanded payment of his money from the paying teller of said savings institute, which was refused, and the said sum still remains due and unpaid: it is ordered that the treasurer of the Charleston Savings Institute pay over forthwith to the said McMahon, upon production of his deposit book or satisfactory evidence of the loss of the same, the amount due him on the 19th day of December, 1860, with interest and dividends per annum from that date to the time of payment, and that said amount be paid in the lawful currency of the United States.

III. It appearing by the report of Brevet Lieutenant Colonel G. A. Williams, major sixth infantry, commissary of musters, that Benjamin Webster, John Clancey, John Carmody, and Edward Walsh, on duty as soldiers of the United States army in Forts Sumter and Moultrie prior to the commencement of hostilities, did deposit certain funds in the Charleston Savings Institute, and that said funds still remain due and unpaid, it is ordered that the treasurer of the Charleston Savings Institute pay over to the said Benjamin Webster, John Clancey, John Carmody, and Edward Walsh, whenever they produce their books of deposit or satisfactory evidence of the loss of the same, the amounts due them respectively on the 19th day of December, 1860, with interest and dividends usually paid by the Charleston Savings Institute from that date to date of payment.

The commanding officer post of Charleston is charged with the execution of paragraphs I, II, and III of this order.

* * * * * *

VI. The following named appointments of civil officers are hereby announced for the town of Darlington, in the district of Darlington, South Carolina, viz:

Intendant, Edwin K. Dargan; wardens, James M. Woodward, Andrew J. Pierce, John G. McCall, Bernard A. Earlif.

The officers hereby appointed, and all persons holding office under the corporation of Darlington, South Carolina, will, in addition to the oath of office required by the laws of South Carolina, take and subscribe the oath set forth in General Orders No. 33, War Department, Adjutant General's Office, Washington, 28th March, 1867. (Section 1 of the act suplementary to an act to provide for the more efficient government of the rebel States and to facilitate restoration, passed 23d March, 1867.)

The oath of office shall be subscribed in duplicate, and one copy, duly attested by a magistrate or other officer authorized to administer oaths, will be filed with the post commander and the other copy in the office of the clerk of the court of common pleas and general sessions, or such other office designated for that purpose by the laws and ordinances of South Carolina.

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The commanding officer of the post will report the names of such officers as do not qualify, and recommend suitable successors.

The commanding officer post of Darlington is charged with the execution of this order.

VII. The election for town officers, held at Winnsboro', South Carolina, on the 1st of April, 1867, having been irregular, the following named appointments of civil officers are hereby announced for the town of Winnsboro', in the district of Fairfield, South Carolina, viz:

Intendant, W. E. Aiken; Wardens, C. H. Ladd, F. Gerig, L. W. Duval, C. W. Faucett.

The officers hereby appointed and all persons holding office under the corporation of Winnsboro', South Carolina, will, in addition to the oath of office required by the laws of South Carolina, take and subscribe the oath set forth in General Orders No. 33, War Department, Adjutant General's Office, Washington, 28th March, 1867, (section 1 of the act supplementary to an act to provide for the more efficient government of the rebel States and to facilitate restoration, passed 23d March, 1867.)

The oath of office shall be subscribed in duplicate, and one copy, duly attested by a magistrate or other officer authorized to administer oaths, will be filed with the post commander, and the other copy in the office of the clerk of the court of common pleas and general sessions, or such other office designated for that purpose by the laws and ordinances of South Carolina.

The commanding officer of the post will report the names of such officers as do not qualify, and recommend suitable successors.

The commanding officer post of Chester is charged with the execution of this order.

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IX. The election for city officers held at Wilson, North Carolina, on the 1st Thursday in April, 1867, having been irregular, the following named appointments of civil officers for the city of Wilson, North Carolina, are hereby announced:

Mayor, T. C. Davis; commissioners, E. Rosenthal, Willis Daniel, W. M. Gay, C. L. Parker, H. W. Peel.

The officers hereby appointed and all persons holding office under the corporation of Wilson, North Carolina, will, in addition to the oath of office required by the laws of North Carolina, take and subscribe the oath set forth in General Orders No. 33, War Department, Adjutant General's Office, Washington, 28th March, 1867, (section 1 of the act supplementary to an act to provide for the more efficient government of the rebel States and to facilitate restoration, passed 23d March, 1867.)

The oath of office shall be subscribed in duplicate, and one copy, duly attested by a magistrate or other officer authorized to administer oaths, will be filed with the post commander, and the other copy in the county or municipal office designated for that purpose by the laws and ordinances of North Carolina.

The commanding officer of the post will report the names of such officers as do not qualify, and recommend suitable successors.

The commanding officer post of Goldsboro' is charged with the execution of this order.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Captain 38th Infantry, A. D. C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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[Special Orders No. 70.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., June 13, 1867.

* * * * * *

III. Brevet Colonel W. B. Royall, major fifth cavalry, will proceed without delay to New York city, contract for the printing of the necessary blanks for registration, superintend the work, and upon the completion thereof return at once to these headquarters. In the execution of this order Colonel Royall will be governed by the instructions he has received from the general commanding.

* * * * * *

V. Permission is given to the managers and agents of the Georgia State lottery, for the benefit of the widows and orphans of freemasons, to open an office in the city of Charleston for the sale of shares in said lottery. This permission will not extend to schemes or tickets in any other lottery.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Captain 38th Infantry, A. D. C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 71.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., June 14, 1867.

I. The following named appointments of civil officers are hereby announced:

1. For the city of Beaufort, county of Carteret, North Carolina—

Mayor, Thomas C. Allen; commissioners, C. S. Bell, W. A. Moore, R. L. Sellick, Joel H. Davis.

2. For Moorhead City, county of Carteret, North Carolina—

Mayor, W. C. Jones; commissioners, A. J. Philips, Thomas Danels, J. A. Henshaw, J. C Codner.

The officers hereby appointed and all persons holding office under the corporations of Beaufort and Moorhead City will, in addition to the oath of office required by the laws of North Carolina, take and subscribe the oath set forth in General Orders No. 33, War Department, Adjutant General's Office, Washington, March 28, 1867, (section 1 of the act supplementary to an act to provide for the more efficient government of the rebel States and to facilitate restoration, passed March 23, 1867.) The oath of office shall be subscribed in duplicate, and one copy, duly attested by a magistrate or other officer authorized to administer oaths, will be filed with the post commander, and the other copy in the county or municipal office designated for that purpose by the laws and ordinances of North Carolina. The commanding officer of the post will report the names of such officers as do not qualify, and recommend suitable successors.

The commanding officer post of Newbern is charged with the execution of this order.

II. Upon the recommendation of his excellency James L Orr, governor of South Carolina, and the commanding officer post of Darlington, the following appointments of civil officers in the district of Marion, South Carolina, are hereby announced:

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Sheriff, Robert Collins; coroner, James F. Dubois.

The officers hereby appointed and all persons holding office in the district of Marion, South Carolina, will, in addition to the oath of office required by the laws of South Carolina, take and subscribe the oath set forth in General Orders No. 33, War Department, Adjutant General's Office, Washington, March 28, 1867. (Section 1 of the act supplementary to an act to provide for the more efficient government of the rebel States and to facilitate restoration, passed March 23, 1867.) The oath of office shall be subscribed in duplicate and one copy, duly attested by a magistrate or other officer authorized to administer oaths, will be filed with the post commander, and the other copy in the office of the clerk of the court of common pleas and general sessions or such other office designated for that purpose by the laws and ordinances of South Carolina. The sheriff will execute and forward to the treasurer of the State, W. Hood, his bond in conformity with the laws of the State. The commanding officer of the post will report the names of such officers as do not qualify, and recommend suitable successors.

The commanding officer post of Darlington is charged with the execution of this order.

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By command of Major General D. E. Sickles:

J. W. CLOUS,
Captain 38th Infantry A. D. C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 75.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., June 18, 1867.

I. Paragraphs I, II, III, IV, V, VI and VII of Special Orders No. 21 from these headquarters, of April 18, 1867, relating to the establishment of a provost court at the military post of Aiken, South Carolina, are hereby revoked, and the following substituted in place thereof:

1. A provost court is hereby established at the post of Aiken, South Carolina, to consist of First Lieutenant William Stone, 45th United States infantry presiding, together with A. Ramsay and Isaac N. Teague, esquires, of Edgefield district, South Carolina, associates.

2. The court shall have jurisdiction of any case not arising under the articles of war which may be referred to it by the post commander, except murder, manslaughter, rape, or arson. Sentences in criminal cases, imposing fines or penalties exceeding one hundred (100) dollars, or affecting the liberty of any person, shall not be executed until approved by the commanding general. The court will carefully observe the requirements of General Order No. 10, current series, from these headquarters.

3. Whenever in the judgment of the post commander, persons charged with murder, manslaughter, rape, arson, or other crime should be brought to trial before a military commission, the accused will be taken into military custody, and the evidence in the case, with charges in due form, forwarded to these headquarters.

4. The post commander, upon the application of any person sued or prosecuted in any civil court in the districts of Barnwell and Edgefield, may order the trans-

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fer of the case to the provost court upon satisfactory evidence that the ends of justice require such transfer.

5. The post commander is authorized to require any sheriff, deputy sheriff, constable, policeman, or guard of cities or towns within his post, to execute any order of the court approved by the post commander.

6. The proceedings of the court in all cases will be forwarded to the post commander for review and approval; appeal to these headquarters from the action of the post commander will not be considered unless accompanied by printed papers and arguments of the parties or their counsel, nor will any motion or appeal be heard *ex parte*.

7. The compensation of the civilian judge or judges will be four dollars a day. The court may employ a clerk at a compensation not exceeding three dollars a day, who shall keep a record of its proceedings. The expenses of the court must be borne out of the funds accruing from fines and costs paid by parties.

8. Simple rules and forms of procedure will be established by the court and published for general information.

9. At the end of each month a return of all receipts and expenditures with vouchers, will be made by the post commander, and by him forwarded to these headquarters.

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By command of Major General D. E. Sickles.

J. W. CLOUS,
Captain 38th Infantry, A. D. C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 80.]

HEADQUARTERS SECOND MILITARY DISTRICT,
Charleston, S. C., June 23, 1867.

* * * * * *

IV. In consideration of the views of his excellency James L. Orr, governor of South Carolina, concerning the prohibition of lotteries in South Carolina, the permission granted in paragraph V of Special Orders No. 70, current series, from these headquarters, to the managers and agents of the Georgia State lottery for the benefit of widows and orphans of Freemasons, to open an office in the city of Charleston for the sale of shares in said lottery, is hereby revoked.

By command of Major General D. E. Sickles:

J. W. CLOUS,
Captain 38th Infantry, A. D. C. and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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THIRD DISTRICT.

[By telegraph.]

WASHINGTON, *March* 27, 1867.

Major General THOMAS, *Louisville, Kentucky:*

Direct commanders of the States of Alabama and Georgia to disallow all elections, State or local, until General Pope arrives and assumes command.

U. S. GRANT, *General.*

Official: E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

[By telegraph.]

WASHINGTON, *March* 27, 1867.

COMMANDING OFFICER, *Augusta, Georgia:*

Prohibit all elections within your command until General Pope arrives and gives his orders in the matter. Answer.

U. S. GRANT, *General.*

Official: E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

MONTGOMERY, ALABAMA, *April* 2, 1867.

GENERAL: I have the honor to transmit, enclosed, my order assuming command of the third military district.

The paragraph suspending elections until the registration of voters is completed, and they can be conducted in compliance with the act of Congress, you will readily see the necessity of. I thought it necessary, in retaining the present civil officers, to provide against the exercise of their official influence while holding such offices, to prevent the people from taking action on the reconstruction of their State governments. This was the more necessary as most of the civil officers are understood to be active secessionists, and disposed to counsel the people to inaction or open opposition.

The effect of the reconstruction bill upon the people of this section of country has been excellent, and it seems certain that in Alabama reconstruction will be accomplished as speedily as the act of Congress will permit. In Georgia, there will be more opposition to any action in that direction, though the advocates of reconstruction are bold and active, and feel assured that by the time the registration is completed the public mind will have been made up to support the necessary measures.

As I have said, no difficulty is apprehended in Alabama, where the governor and most of the State officers are actively committed to reconstruction, and for that and other reasons I deem it judicious to transfer my headquarters to Georgia. General Swayne, the commanding officer in this State, is an intelligent and earnest officer, fully alive to his duties, and interested in the success of the restoration policy. He is in entire harmony with Governor Patton, and matters will work smoothly and well.

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In Georgia, the governor has not yet pronounced himself, and matters are more doubtful. Neither is there in that State an officer in command who is likely to be so efficient, or so much interested in the success of the reconstruction measures, and my immediate presence is urged by many of the most prominent men at the head of the movement for the restoration of the State government. With your assent, therefore, I will move my headquarters to Atlanta on or before the 10th instant.

I have no staff officers, and need them extremely. I ought to have an efficient adjutant general. The official correspondence is already very great, and I cannot possibly attend to it. There are very few officers with the troops—not more, indeed, than are absolutely necessary with their companies. These are, besides, young men entirely unacquainted with such duties. I trust you will send me staff officers as soon as possible.

Will you please telegraph me authority for the removal of headquarters to Atlanta?

I am, general, respectfully, your obedient servant,

JOHN POPE,
Brevet Major General Commanding.

General U. S. GRANT,
General-in-Chief, Washington.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

[General Orders No. 1.]

HEADQUARTERS THIRD MILITARY DISTRICT,
Montgomery, Alabama, April 1, 1867.

I. In compliance with General Orders No 18, dated headquarters of the army, March 15, 1867, the undersigned assumes command of the third military district, which comprises the States of Alabama, Georgia, and Florida.

The districts of Georgia and Alabama will remain as at present constituted and with their present commanders, except that the headquarters of the district of Georgia will be forthwith removed to Milledgeville.

The district of Key West is hereby merged into the district of Florida, which will be commanded by Colonel John T Sprague, seventh United States infantry.

The headquarters of the district of Florida are removed to Tallahassee, to which place the district commander will transfer his headquarters without delay.

II. The civil officers at present in office in Georgia, Florida, and Alabama will retain their offices until the expiration of their terms of service, unless otherwise directed in special cases, so long as justice is impartially and faithfully administered. It is hoped that no necessity may arise for the interposition of the military authorities in the civil administration, and such necessity can only arise from the failure of the civil tribunals to protect the people, without distinction, in their rights of person and property.

III. It is to be clearly understood, however, that the civil officers thus retained in office shall confine themselves strictly to the performance of their official duties; and whilst holding these offices they shall not use any influence whatever to deter or dissuade the people from taking an active part in reconstructing their State governments under the act of Congress to provide for the more efficient government of the rebel States, and the act supplemental thereto.

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IV. No elections will be held in any of the States comprised in this military district, except such as are provided for in the act of Congress, and in the manner therein established; but all vacancies in civil offices which now exist or which may occur by expiration of the terms of office of the present incumbents before the prescribed registration of voters is completed, will be filled by appointment of the general commanding the district.

JOHN POPE,
Brevet Major General Commanding.

Official:

J. F. CONYNGHAM,
First Lieut. Twenty-fourth U. S. Infantry, A. A. A. G.

OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., April 1, 1867.

[From Montgomery, Alabama, April 1, 1867—3.40 p. m.]

General U. S. GRANT, *General-in-Chief:*

Arrived and assumed command this morning. Orders sent by mail.

JOHN POPE, *Brevet Major General.*

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

HEADQUARTERS THIRD MILITARY DISTRICT,
Montgomery, Alabama, April 7, 1867.

GENERAL: I have the honor to ask what is your understanding of the status of officers of the rebel army paroled at the conclusion of the war? Do these paroles still hold good, or are they set aside by any proclamation of the President?

I ask because I desire to know what action I shall be authorized to take against the rebel officers thus paroled who may actively and openly counsel the people in this district to resist the execution of the late act of Congress providing for reconstruction in the southern States.

Does not that provision of their parole which requires them to go to their homes and obey the laws require them also to refrain from inciting others to neglect or resist the laws of the United States? Is not an attempt on their part to keep up difficulty and prevent the settlement of the southern question in accordance with the act of Congress in violation of parole?

In Alabama I think there will be no trouble whatever in completing the registration and carrying out the objects of the act of Congress. The governor of the State and all or nearly all the State officers, as well as a very large majority of the prominent men in the State, are in favor of reconstruction under the act, and are actively canvassing the State with what may be safely considered certainty of success.

In Georgia there will be far more difficulty. I am going to that State, at the urgent request of many citizens, in a few days, and as a large part of my time will be necessarily spent there I have telegraphed for authority to move my headquarters to Atlanta, which, being the centre of railroad communication, affords very great facilities for easy communication with all parts of the district.

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I have just made an order for the registration, which I enclose herewith. To determine the compensation of the registers I would be glad to have from the Census Bureau a table of pay for their employés. The object of graduating the pay of registers by the number of recorded names, is to make sure that the entire freedmen's vote will be brought out. It is for the interest of the registers that no name of a qual fied voter is omitted.

I do not apprehend any difficulty in executing the law as far as it refers to the protection of persons in their rights of person and property, and no disturbance whatever is anticipated. There are, however, in the northern parts of Alabama and Georgia bands of mounted robbers who depredate upon the people, and especially upon the negroes.

These bands are beyond the control of the civil authorities, and infantry forces are useless against them. For the same reason that General Thomas finds it necessary to keep four companies of cavalry in Tennessee, I find some companies of cavalry necessary in northern Georgia and Alabama, and I trust a few companies will be sent me as soon as practicable.

In Florida everything is quiet. She will follow the lead of Georgia and Alabama.

No staff officers have yet reported to me except General Dunn. Even if I could take officers enough from their companies for staff duty, (which I cannot do without leaving the companies without officers,) they are wholly unacquainted with staff duties, and are unfit, besides, for any such position.

I presume that an adjutant general and quartermaster at least have been sent me. For these duties I need the best and most discreet officers.

I am, general, respectfully, your obedient servant,

JOHN POPE,
Brevet Major General Commanding.

General U. S. GRANT,
General-in-Chief U. S. Army, Washington.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

WASHINGTON, *April* 13, 1867.

GENERAL: In reply to your communication of April 7, the General-in chief directs me to say that your views upon the obligation of a parole are in strict accordance with his own.

Application will be made to the Secretary of the Interior for the information you desire from the Census Bureau.

Staff officers have been ordered to report to you.

I am, general, your obedient servant,

O. E. BABCOCK,
Brevet Brigadier General and Aide-de-Camp.

Brevet Major General JOHN POPE, *U. S. Army,*
Commanding Third Military District, Atlanta, Georgia.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

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HEADQUARTERS THIRD MILITARY DISTRICT.

GENERAL: I have the honor to transmit enclosed a copy of an order which it is my purpose to publish as soon as I have ascertained from Provisional Governor Jenkins whether, at the time he issued his address to the people of this State, he had seen or had knowledge of my Order No. 1.

The course of Governor Jenkins is disapproved and deprecated by every man in the State who favors reconstruction. It is doing great injury, by keeping the people disturbed and uncertain what to do, and in arresting the general movement which was going on for active participation in re-establishing the State government. In addition to this, I am mainly concerned in the total neglect of his duties and the embarrassment in the execution of the laws and the maintenance of good order arising from the fact that there is no lieutenant governor, and no one in the State who can act for him.

Already it has been necessary to interfere with the military authority to arrest the execution of a man who was recommended to executive clemency by both judge and jury, but who would inevitably have been hanged because the provisional governor had absented himself and was not present to perform his duties.

Provisional Governor Jenkins's course in attempting to make Georgia a party to a suit, without authority of law and without the consent of either legislature or people, is creating great dissatisfaction, and is embarrassing me very much in the performance of my duty. His address to the people of this State, advising them to take no action under the late acts of Congress, and denouncing those acts in a manner to excite ill-feeling, if not actual disturbance in their execution, is a positive violation of my Order No. 1, and if not promptly noticed will render that order null and of no effect, and at once array the whole army of State officials against the execution of those acts.

The ill effects of permitting the whole power of the provisional State government, through all its civil departments and in all its ramifications, to be used to frustrate the acts of Congress and to keep up the disturbed condition of the public mind, cannot be overstated. No reconstruction is possible, and it will be next to impossible to secure faithful administration of the laws, while such influences are allowed to go on unchecked, unless the entire civil government is overthrown and the military substituted. I deem it of the last importance to arrest it now, in the person of Provisional Governor Jenkins. If he is permitted to set authority at defiance, it will be useless to notice such offences committed by the minor officers.

I shall wait until the receipt of this letter and order is acknowledged, which I request may be done by telegraph, when, if I am not restrained, I will then publish and execute the order.

I am, general, very respectfully, your obedient servant,

JNO. POPE,
Brevet Major General Commanding.

General U. S. GRANT,
General-in-Chief U. S. Army.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 6, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Indorsement on the foregoing.]

Respectfully forwarded to the Secretary of War for his information. The telegraphic despatch herein enclosed shows that Governor Jenkins, of Georgia, has given such pledges to the commander of the third district as to induce him to withhold, for the present, his order suspending the governor.

The conduct of Governor Jenkins demonstrates, however, how possible it is

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for discontented civil officers of the reconstructed States to defeat the laws of Congress, if the power does not exist with the district commanders to suspend their functions, for cause, in some way. It seems clear to me that the power is given in the bill "for the more efficient government of the rebel States," to use or not, at the pleasure of district commanders, the *provisional* machinery set up without the authority of Congress, in the States to which the reconstruction act applies. There being doubt, however, on this point, I would respectfully ask an early opinion on the subject.

If the power of removal does not exist with district commanders, then it will become necessary for them to take refuge under that section of the bill which authorizes military commissions.

U. S. GRANT, *General.*

HEADQUARTERS ARMIES U. S., *April* 22, 1867.

OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., April 20, 1867.

[From Atlanta, Georgia, April 20, 1867—10.45 a. m.]

The explanation made by Governor Jenkins and his assurances for the future are satisfactory, and render unnecessary any further consideration of the order I sent you by mail.

JNO. POPE,
Brevet Major General U. S. Army.

Official:

GEO. K. LEET, *A. A. G.*

Official copy:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

[Special Orders No. —.]

HEADQUARTERS THIRD MILITARY DISTRICT,
Atlanta, Georgia, April 17, 1867.

Charles J. Jenkins, provisional governor of the State of Georgia, having absented himself and still remaining absent from the said State, to the neglect of his official duties and to the embarrassment of both the civil and military administration—being engaged in the city of Washington in his *official* capacity, but without the authority of the legislature or people of the State, in instituting proceedings before the Supreme Court of the United States for the purpose of hindering, delaying, and defeating the execution of the late acts of Congress "to provide for the more efficient government of the rebel States," and the act supplemental thereto; and the said provisional governor having, in his *official* capacity, published an address "to the people of Georgia," bearing date Washington, April 10, 1867, denouncing said acts of Congress as palpably unconstitutional and grievously oppressive, and containing other language calculated to create discontent in the minds of the people and to excite animosity against the United States government; and in the same address advising the people of Georgia, whatever may be the decision of the Supreme Court of the United States, to refuse acquiescence in and adoption of the measures prescribed in said acts whereby the State of Georgia may be restored to her proper relations to the government, which address is in direct violation of General Orders No. 1,

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issued from these headquarters April 1, 1867, wherein, after providing for the retention in office of the civil officers in the States in this military district, is the following paragraph: "III. It is to be clearly understood, however, that the civil officers thus retained in office shall confine themselves strictly to the performance of their official duties; and while holding these offices they shall not use any influence whatever to deter or dissuade the people from taking an active part in reconstructing their State governments under the act of Congress to provide for a more efficient government of the rebel States and the act supplemental thereto;" and it being manifestly impracticable for the general commanding to perform his duties under the laws through the agency of the civil government and tribunals now in existence in this State while the provisional governor thereof proclaims his opposition to the execution of said laws and denounces the same, and violates the orders and defies the authority of the commanding general, who is held responsible that the authority and laws of the United States shall be duly respected in his district:

Therefore, the said Charles J. Jenkins is hereby deposed from the office of provisional governor of the State of Georgia, and the Hon. ——— ———, of said State, is appointed provisional governor thereof, with power to exercise all the authority and perform all the duties of governor of the State of Georgia until further orders.

JNO. POPE,
Brevet Major General Commanding.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 6, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

Address of Governor Jenkins.

To the people of Georgia:

During the late civil war you were distinctly informed by legislative resolves and by executive proclamations emanating from the United States government, that it was waged against you not vindictively, not for the purpose of conquest, but solely for the maintenance of the Union. The theory announced was that by her ordinance of secession Georgia had not placed herself, nor could in any way place herself, without its pale, but that, at whatever cost of blood and treasure, the resistance of her people to the authority of the United States must be suppressed.

With these ideas in your minds, (actuated by what considerations it matters not,) in April, 1865, you, in good faith, ceased that resistance, laid down your arms, and made full submission. From these premises it is undeniable that you had a right to expect, as it is notoriously true you did expect, speedy restoration to the position in the Union from which you had essayed to withdraw—your status unchanged, save in the abolition of slavery, to which, with amazing equanimity, you assented by word and by act.

To this work of restoration the President of the United States, in the recess of the Congress, faithful to the theory promulged as above stated, addressed himself, with much of circumstantial detail and elaborate machinery, but in a spirit of unaffected kindness.

His prescribed programme you strictly pursued; all that was antagonistic to the United States government you expunged from your records; all that was

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required to put you again in proper relation with that government you did. When next the Congress assembled, your State government (which had been temporarily suspended) was in full operation. Senators and representatives, regularly elected and duly commissioned, presented themselves in the halls of Congress and were refused admission. Yet the postal, revenue, and judicial systems of the federal government were extended over Georgia as over Massachusetts and Ohio. Direct taxes assessed against *the several States* of the Union, by acts previously passed, were collected from you. An amendment of the federal Constitution, proposed by the Congress in the prescribed forms, was presented to your legislature for ratification or rejection, as to those of New York and Pennsylvania. This you ratified, and your ratification was accepted. Your State government moved uninterruptedly in its proper sphere, its legislative and executive departments holding communication with departments of the federal government, as in the palmy, peaceful days of the republic. Thus one long session of the Congress transpired, causing no new regret, save your continued exclusion from the national councils. This you bore, if not uncomplainingly, at least submissively, patiently awaiting the prevalence of counsels more liberal, more just. But during the first session of the thirty-ninth Congress another amendment was proposed to the Constitution and presented to your legislature for consideration and ratification or rejection. This was considered in the interval between the first and second sessions of the thirty-ninth Congress, and in terms entirely respectful, but quite distinct, rejected. Other States (now and always participant in federal legislation, whose status as members of the Union has never been questioned) likewise rejected it, and are unmolested. Against Georgia, and other States similarly situated, the rejection seems to have stimulated the ire of the national legislators. After having treated Georgia as a State, so far as coincided with their convenience or their interest; after having tolerated her government, reconstructed under federal executive auspices, during a period of eighteen months, the thirty-ninth Congress, just at its close, enacted a law providing for the reconstruction of your State government in accordance with their will and pleasure, irrespective of your own, and, *ad interim*, for your military government. The fortieth Congress, taking up the role, immediately upon the expiration of its predecessor, has enacted a law supplementary to the former, placing the whole machinery of reconstruction in the hands of the military governor previously provided for. Construing the two acts together, that official is clothed with dictatorial powers over you, and sustained by as many bayonets as may be necessary to the end in view. They prescribe, as indispensable provisions in your contemplated constitution, several articles which the enacting power well knows you disapprove, and some of which, as applicable to themselves, other States now in full fruition of the Union disapprove, and have recently rejected. Lastly, these enactments, for the purposes of this forced reconstruction, extend the elective franchise to a large class of persons on whom you have never bestowed it, and to whom you, as well as other States now represented in Congress, by the rejection of the last proposed constitutional amendment, have refused to extend it.

These acts of Congress have been vetoed by the President, but have been passed over his veto by two-thirds of each branch of the Congress.

I shall not swell this address by a thorough analysis of these acts. They are fearfully familiar to you. But I hesitate not to say to you that they are palpably unconstitutional and grievously oppressive.

Such, fellow-citizens, is your present condition, and the official relation I bear to you demands that I speak to you of it. The all-absorbing question is, What shall Georgia do?

The public discussions seem to recognize only two alternatives: First, prompt acquiescence in the already rejected proposal for amendment to the federal Constitution, and in all the requirements of the two acts of Congress before mentioned,

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together with the incorporation of them all, by our own acts, into our constitution and laws; secondly, a firm but temperate refusal of such acquiescence and adoption, and a patient, manly endurance of military government, until, in the efflux of time and on the subsidence of the passions generated by civil war, better counsels shall prevail at the federal capital—we, meantime, strictly observing law and order, and vigorously addressing ourselves to industrial pursuits.

As between these alternatives I have no hesitation in advising the adoption of the latter, but forbear at this time to assign any reasons for this advice, because, fellow-citizens, I am far from believing that these are the only alternatives. I have strong faith that there remains to us an available remedy. In the federal government there are three departments. Two of them have passed upon these measures, and are in direct antagonism regarding their constitutionality. But in that event the Constitution gives to the legislative department power to override the executive, and they have so done. There still remains, however, the judicial department—the great conservator of the supremacy of the Constitution—whose decrees, unlike the executive veto, cannot be overridden by the Congress. That department has not yet spoken. Should it be found in accord with the executive, this usurpation will be arrested. Then, although for a time you may be denied representation in Congress, your State government will remain intact, and full restoration will not long be delayed.

Watching at home the progress of these measures, I gave, as was my duty to you, earnest consideration to the question whether or not we had any remedy against them. I reached the conclusion that a case could be made, giving jurisdiction to the Supreme Court, wherein the validity of these acts could be properly tested, and whereby, if found invalid, they could be arrested. Unwilling to trust my own judgment or that of any southern jurist, so liable to be swayed by the bias of southern interest and southern feeling, immediately upon the passage of the first act I came here for the sole purpose of submitting my views to, and consulting with, jurists able and pure, who would view the whole subject from a different stand-point. I have done so, and, by such men, my proposed course has been approved. Before you read this the cause of Georgia will be in that august tribunal, hitherto true to the Constitution—the bulwark of our liberties. The great question of relief from that quarter will be speedily determined. Need I ask you to be calm and quiet, committing yourselves hastily to no particular course of action? Should we fail, (as fail we may,) there will remain nothing that I can do for you. Your destiny will be in your own hands, and you must choose between the alternatives first presented. In making that choice you have my counsel, perhaps erroneous, but certainly honest.

CHARLES J. JENKINS.

WASHINGTON CITY, D. C., *April* 10, 1867.

HEADQUARTERS THIRD MILITARY DISTRICT,
Atlanta, Georgia, April 24, 1867.

GENERAL: I have the honor to transmit enclosed copies of a correspondence with Provisional Governor Charles J. Jenkins, of Georgia. I have concluded, in view of a lengthened conversation with Governor Jenkins, to take no further action in his case for the present.

I think it judicious to retain in office the present civil officers in Georgia, most of whom are still rebels, provided they can be restrained from using any influence to prevent the people from complying with the acts of Congress, and so long as they administer the laws with impartiality and justice. By this arrangement they will be prevented from doing the injury to the cause of reconstruction that they might do if allowed, in an unofficial capacity, to take an active part in the political discussions which will arise in the progress of registration and election.

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As soon as I find that they are not thus restrained, I will remove them from office, and, if necessary, bring them to trial.

I shall in a few days publish an order prohibiting the newspapers or speakers, in their discussions about the policy of reconstruction under the late acts of Congress, from abusing or denouncing the government or any of its departments, or using personal epithets or misrepresentation personally of any officer of the United States government for any acts done in performance of his duty; in fact, from any abuse whatever that may tend to weaken the authority or bring into contempt or excite any feeling of ill-will toward any such officer.

I am, general, respectfully, your obedient servant,

JOHN POPE,
Brevet Major General Commanding.

General U. S. GRANT,
General-in-Chief, Washington, D. C.

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, April 17, 1867.

SIR: I have the honor to transmit, enclosed, a copy of my general order assuming command of this military district. Copies were sent to you at the time, addressed to Milledgeville. Paragraph III of that order reads as follows:

"III. It is to be clearly understood, however, that the civil officers thus retained in office shall confine themselves strictly to the performance of their official duties, and whilst holding their offices they shall not use any influence whatever to deter or dissuade the people from taking an active part in reconstructing their State government, under the act of Congress to provide for the more efficient government of the rebel States and the act supplementary thereto."

I have the honor to request that you will inform me, at as early a day as possible, whether, when you issued your address to the people of Georgia, dated Washington, D. C., April 10, 1867, you had seen or had knowledge of the enclosed order.

I am, very respectfully, your obedient servant,

JOHN POPE,
Brevet Major General Commanding.

CHARLES J. JENKINS,
Provisional Governor, Milledgeville, Georgia.

A duplicate of this letter has been addressed to you at Washington city.

A true copy:

G. K. SANDERSON,
Capt. 33d U. S. Infantry, A. A. A. General.

NATIONAL HOTEL,
Atlanta, Georgia, April 20, 1867.

SIR: On yesterday evening a copy of a communication from you, addressed to me at Milledgeville on the 17th instant, was handed to me in this hotel. With that communication was transmitted a copy of your General Order No. 1, issued from Montgomery, Alabama; and my attention being called to paragraph 3 of that order, you inquire whether, when I issued my address to the people of Georgia, dated Washington, D. C., April 10, 1867, I had seen or had knowledge of your order above mentioned. I answer that, at that time, I had neither seen nor had knowledge of it.

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I supposed I was exercising such freedom in the public expression of opinion relative to public matters as seems still to be accorded to the citizens of this republic, not imagining that it was abridged by the accident of the speaker or writer holding office.

So much for the past, general, and I will only add that in the future I shall do and say what I may believe is required of me by the duty to which my oath of office binds me, and this, I trust, will not involve either conflict or controversy between us in the execution of our respective trusts, as I think it need not. Everything of this character I certainly desire to avoid.

I am, sir, very respectfully, your obedient servant,

CHARLES J. JENKINS,
Governor of Georgia.

Brevet Major General JOHN POPE,
Commanding, &c.

A true copy:

G. K. SANDERSON,
Capt. 33d U. S. Infantry, A. A. A. General.

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, April 22, 1867.

GOVERNOR: I have the honor to acknowledge the receipt of your letter of the 20th instant, in answer to mine of the 17th.

It gives me pleasure to say that your explanation is satisfactory so far as the past is concerned, and I cordially concur with you in the hope that our relations in the future may be harmonious and agreeable.

I would content myself with this answer to your letter but for the following remark which it contains. You say: "I supposed I was using such freedom in the public expression of opinion relative to public matters as seems still to be accorded to the citizens of this republic, not imagining that it was abridged by the accident of the speaker or writer holding office." This expression seems to indicate that you think that in some manner, either personally or officially, you have been wronged by that paragraph of my order which has occasioned this correspondence, and that I am seeking to abridge the liberty of speech in this State in an unnecessary and oppressive manner. I trust that I may be able to disabuse your mind of this idea. It is scarcely necessary to tell you that the late acts of Congress, which I am sent here to execute, recognize the existing State government of Georgia as merely provisional, and that the object in recognizing it at all was only that the ordinary course of business in the civil tribunals and the administration of the laws of the State by the customary agencies might not be interrupted further than was necessary for the strict execution of the laws of the United States. It is not doubted that Congress might have legislated the present State government of Georgia out of existence as easily as they have recognized it as provisional, and it is as little to be doubted that Congress would have done so could it have been foreseen that the entire machinery of the provisional State government would be used to defeat the very law by whose sufferance alone it has any existence at all.

It is very clear that Congress did not intend to recognize or permit to exist by these reconstruction acts a powerful organization to be used against their execution, nor can such use be made of the State government of Georgia without greatly obstructing, if not, indeed, entirely frustrating, the performance of the duty required of me by these acts.

The existing State government was permitted to stand, for the convenience

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of the people of Georgia, in the ordinary administration of the local civil laws, and to that end it should be carefully confined.

It was in this view that paragraph 3 of my order assuming command was considered, and it is not easy to see how it can be regarded as oppressive or unjust.

Holding your office by permission of the United States government, you are debarred, as I am, from expressing opinions or using influences to defeat the execution of the laws of the United States, or to excite ill feeling and opposition to the general government, which is executing these acts of Congress.

With your personal opinions, or those of any citizen of Georgia, or their expression within the limits of the law, I have nothing to do; but the distinction between personal opinion, openly expressed in an official capacity, and official opinion, is too nice for the common understanding.

The influence of your opinions, openly avowed, must of necessity be very great with the civil officers of the State in all its departments, when the tenure of office is largely dependent upon your pleasure. Your opinions as a private citizen without official station and the same opinions while governor of Georgia have a very different significance, and produce a very different effect.

It only requires that the civil machinery of the State of Georgia be not perverted so as to frustrate the execution of the laws of the United States, and for that reason I exact from the civil officers that while they retain their offices they confine themselves strictly to the performance of their official duties, and do not use their influence to prevent the people of the State from submitting to and carrying out the laws of the United States.

In your address to the people of Georgia, which occasioned this correspondence, you denounce the acts of Congress, which I am sent here to execute, as "palpably unconstitutional" and "grievously oppressive," and advise the people, whatever may be the decision of the Supreme Court of the United States, to take no action under those laws. While you counsel them not to resist by violence, you at the same time, by open official denunciation of the law, invite the very action which you seem to deprecate.

It is manifestly impossible for me to perform the duties required of me by the acts of Congress while the provisional governor of the State is openly denouncing them, and giving advice to the public in his official capacity, the result of which will be to excite discontent and to array the whole army of office-holders in the State in opposition to their execution, unless, indeed, the whole civil government of the State is overthrown and the military substituted. I think such a change would be as distasteful to the people of Georgia as it would be to me; and yet, if the civil officers of the State follow the example which your excellency has set them, there will be no escape from such a result.

The third paragraph of my order imposes no restrictions on you to which I am not myself subjected. You hold your office by permission of the United States government. I hold mine, as do thousands of others, both civil and military, by substantially the same tenure. Custom, old enough to be law itself, restricts us in conversation and action precisely as paragraph 3 of my order restricts you. There is a very simple mode of freeing ourselves from such restrictions when they become too oppressive.

In conclusion, governor, it seems necessary for me to say, in general reply to the latter portion of your letter, that the paragraph of my order to which you object was very carefully considered; that it means precisely what it says, and that to the full extent of my power it will be strictly enforced.

My great respect for your personal character has made it painful to me to write you this letter; but as a fair and full understanding between us is absolutely essential to anything like harmonious relations, I have thought it necessary, even at the risk of giving offence, to acquaint you fully with my under-

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standing of my duty and of the status of the civil officers of the provisional State governments under the late acts of Congress.

I again assure you that it shall be my study, as it will be my pleasure, to preserve unimpaired friendly and harmonious relations with you, and I trust that our views on the subject of this correspondence may be made to harmonize sufficiently to secure this result.

I am, very respectfully, your obedient servant,

JOHN POPE,
Brevet Major General Commanding.

Provisional Governor CHARLES J. JENKINS,
Milledgeville, Georgia.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

A true copy:

G. K. SANDERSON,
Captain 33d U. S. Infantry, A. A. A. General.

Transmitted by General Grant, and received at the Adjutant General's office, July 8, 1867.

OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., May 22, 1867.

[From Atlanta, Georgia, May 22, 1867—11.40 a. m.]

General U. S. GRANT:

Official reports of the late riot at Mobile received and transmitted to you to-day by mail.

I have deposed the mayor and chief of police, and replaced them by efficient Union men. The whole city government will be remodelled in a day or two. The military forces exercise, and will continue to do so, general supervision over the municipal government. The principal instigator of the riot is in confinement at Fort Gaines, and will be tried by military commission. Active exertions are being made to apprehend other riotous parties.

Full details by mail.

JOHN POPE.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

HEADQUARTERS THIRD MILITARY DIVISION,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, June 5, 1867.

GENERAL: The city government of Mobile is now remodelled as far as is essential to the smooth working of the new authorities. The appointees were very carefully selected by General Swayne after a full conference with responsible citizens of Mobile, and it is believed that they give very general satisfaction.

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I feel satisfied that the change of authority in Mobile was essential to the peace of the city in the future, and to the best interests otherwise of the people. It had been plain, ever since I arrived here, that the city government of Mobile was inefficient, and unsatisfactory to the citizens. The disturbance which was the immediate occasion of the removal of the municipal authorities, was only the natural result of long-continued bad management. Something of the kind had been expected for some time.

I think it safe to say that the peace and quiet of the city for the three months during which registration is progressing, and during which the excitement of political discussion will be at its height, will be far more secure in the hands of the present municipal authorities than in those of their predecessors in office.

As soon as registration is completed the usual elections will be held for these and other civil offices, temporarily filled by appointment.

I trust, on all accounts, that these changes in Mobile will not be interfered with. Aside from the want of confidence in the deposed officials, the very fact of the interposition of the President in the affairs of so unsettled a place as Mobile, and the reinstatement of these deposed officials, would create so much excitement and alarm that I should feel bound, at once, to declare martial law in that city, and entirely set aside the civil authorities.

I think you know, general, that I desire to act judiciously and carefully in these matters, and not to interfere with existing civil authorities at all if I can help it, and certainly no further than the peace and security of the people absolutely demand.

What I have done in Mobile I consider absolutely necessary for the protection of life and property in that city, and I trust that the authorities in Washington, acting at such a distance from the scene, and of course much less able to understand the necessities of the case, will be very careful in taking any action which will set aside so deliberate and well-considered an act as the removal of the municipal officers in Mobile.

The fact that I have made no removals elsewhere, and have interfered not at all with the civil administration in any other place, ought to be good evidence that I am not disposed to act hastily, and that when I interpose I do so reluctantly, and only because I think it cannot be avoided, in view of the security of person and property to citizens, for whose safety I am held responsible by the law.

I am, general, very respectfully, your obedient servant,

JOHN POPE,
Brevet Major General U. S. Army Commanding.

General U. S. GRANT,
General-in-Chief, Washington, D. C.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 6, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Indorsement on the foregoing.]

HEADQUARTERS ARMY UNITED STATES, *June* 8, 1867.

Respectfully forwarded to the Secretary of War for his information.

U. S. GRANT, *General.*

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[Special Orders No. 34.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, May 31, 1867.

* * * * * * *

III. In pursuance of the recommendation made by Major General Wager Swayne, commanding district of Alabama, in his communication of the 20th instant, touching the recent disturbance at Mobile, Alabama, and for the reasons therein stated, the offices of city tax collector, city treasurer, and the boards of aldermen and common council of the city of Mobile are hereby vacated by the removal of the present incumbents, and the following named persons are appointed in their stead:

To be city tax collector, William Hurter.

To be city treasurer, Willard Freeman.

To be members of the board of aldermen: ward 1, B. Moog and S. W. Fosdick; ward 2, P. McCafferty and Fred. Bomberg; ward 3, J. H. Duvall and W. H. Lemkemf; ward 4, J. D. Spear, Jonathan Kirkbride, and M. S. Foote; ward 5, Thomas Manser and James Blyth; ward 6, James Shaw, W. D. Gerron, and W. G. Johnson; ward 7, Dr. J. W. Coale and R. J. McLarren; ward 8, Thomas R. Sumrall, Charles Partridge, and J. R. Eastburn.

To be members of the common council: ward 1, John Grant; ward 2, G. F. Tarleton; ward 3, Newton St. John; ward 4, Robert S. Bunker; ward 5, B. F. Scattergood; ward 7, Balthazar Tardy.

By command of Brevet Major General Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 6, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

OFFICE UNITED STATES TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., June 17, 1867.

[From Atlanta, Ga., June 17, 1867.—Received 2.30 p. m., in cipher.]

General U. S. GRANT:

It is untrue that negroes have been appointed in the municipal government of Mobile. The city government is complete, and of the best men in the city. The following is an extract from a letter of General Swayne:

"Governor Parsons leaves for Washington to-night, and informs me that he will probably take with him the spontaneous expression of the best public men in this State against the restoration of any of the persons removed."

JOHN POPE,
Major General Commanding.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at the Adjutant General's office, July 8, 1867.

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[Telegram in cipher.—Received 2 p. m.]

ATLANTA, GA., *June* 27, 1867.

General U. S. GRANT, *Commanding Armies United States:*

Day before yesterday I received a copy of the opinion of the Attorney General on registration, sent me for my information through the Assistant Adjutant General, by order of the President.

Ten days ago I had made and published instructions to registers which will have to be dropped if the Attorney General's opinion is enforced. The opinion sent me by the President's order does not seem to be an order to me on the subject; but as there may be room for doubt, I ask that I be informed by telegraph whether or not I am ordered by the President to conform my action to the Attorney General's opinion. I stand ready to obey the President's orders on the subject, but I wrote you fully on the subject yesterday the probable result of enforcing the Attorney General's opinion in this district, enclosing also copies of my orders and instructions about registration.

Please answer by telegram as soon as possible, as it is manifest that there should be no delay in my being informed of the President's purpose.

JOHN POPE,
Major General Commanding.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at the Adjutant General's office, July 8, 1867.

[By telegraph in cipher.]

WASHINGTON, *June* 28, 1867.

Major General J. POPE, *Atlanta, Ga.:*

Your despatch of yesterday received. Enforce your own construction of the military bill until ordered to do otherwise. The opinion of the Attorney General has not been distributed to district commanders in language or manner entitling it to the force of an order; nor can I suppose that the President intended it to have such force.

U. S. GRANT, *General.*

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at the Adjutant General's office, July 8, 1867.

General Orders from the headquarters third military district, 1867.

[Orders No. 1.]

HEADQUARTERS THIRD MILITARY DISTRICT,
Montgomery, Alabama, April 1, 1867.

I. In compliance with General Orders No. 18, dated Headquarters of the Army, March 15, 1867, the undersigned assumes command of the third military district, which comprises the States of Alabama, Georgia, and Florida.

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The districts of Georgia and Alabama will remain as at present constituted and with their present commanders, except that the headquarters of the district of Georgia will be forthwith removed to Milledgeville.

The district of Key West is hereby merged into the district of Florida, which will be commanded by Colonel John T. Sprague, seventh United States infantry.

The headquarters of the district of Florida are removed to Tallahassee, to which place the district commander will transfer his headquarters without delay.

II. The civil officers at present in office in Georgia, Florida, and Alabama will retain their offices until the expiration of their terms of service, unless otherwise directed in special cases, so long as justice is impartially and faithfully administered. It is hoped that no necessity may arise for the interposition of the military authorities in the civil administration, and such necessity can only arise from the failure of the civil tribunals to protect the people, without distinction, in their rights of person and property.

III. It is to be clearly understood, however, that the civil officers thus retained in office shall confine themselves strictly to the performance of their official duties; and while holding their offices, they shall not use any influence whatever to deter or dissuade the people from taking an active part in reconstructing their State governments, under the act of Congress to provide for the more efficient government of the rebel States, and the act supplemental thereto.

IV. No elections will be held in any of the States comprised in this military district, except such as are provided for in the act of Congress, and in the manner therein established; but all vacancies in civil offices which now exist, or which may occur by expiration of the terms of office of the present incumbents, before the prescribed registration of voters is completed, will be filled by appointment of the general commanding the district.

JOHN POPE,
Major General Commanding.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Orders No. 4.]

HEADQUARTERS THIRD MILITARY DISTRICT,
Montgomery, Alabama, April 4, 1867.

I. All post commanders within the limits of this military district are instructed to report, as soon as practicable after their occurrence, any failures of civil tribunals or officers to render equal justice to the people, and any acts of such tribunals or authorities in contravention of the civil rights bill, or other acts of Congress applicable to the southern States. Their attention is particularly called to acts of the local or State authorities or tribunals, which discriminate against persons on account of race, color, or political opinion; and whilst not interfering with the functions of the civil officers, they are directed to give particular attention to the manner in which such functions are discharged, so far as relates to the matters above specified. The post commanders are admonished, however, to be cautious and careful in their statements, and to send with their reports such evidence of the facts as shall justify action on the part of the general commanding.

II. All reports on these subjects will be addressed to the commander of the district in which the officer so reporting is stationed, and the district commander

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will forward the reports to these headquarters, with his opinion and recommendation indorsed thereon.

III. It is made equally the duty of the district commander to give his own personal attention to the cases above referred to, or any which may come under his own observation, and to report thereon without delay.

IV. The attention of all officers serving in this military district is called to paragraph 3 of General Orders No. 1, from these headquarters. Any violation of that paragraph will be forthwith reported.

By command of Brevet Major General Pope:

J. F. CONYNGHAM,
First Lieut. 24th U. S. Infantry, A. A. A. General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Orders No. 5.]

HEADQUARTERS THIRD MILITARY DISTRICT,
Montgomery, Alabama, April 8, 1867.

I. The following extract from the recent acts of Congress in relation to reconstruction in the southern States is published for the information of all concerned:

[PUBLIC—No. 6.]

AN ACT supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration.

Be it enacted, &c., That before the first day of September, 1867, the commanding general in each district (defined by an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867) shall cause a registration to be made of the male citizens of the United States, twenty-one years of age and upwards, resident in each county or parish in the State or States included in his district, which registration shall include only those persons who are qualified to vote for delegates by the act aforesaid, and who shall have taken and subscribed the following oath or affirmation:

"I, ——— ———, do solemnly swear, or affirm, in the presence of Almighty God, that I am a citizen of the State of ———; that I have resided in said State for ——— months next preceding this day, and now reside in the county of ———, or the parish of ———, in said State, as the case may be; that I am twenty-one years old; that I have not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any State or the United States; that I have never been a member of any State legislature, nor held any executive or judicial office in any State, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I will faithfully support the Constitution and obey the laws of the United States, and will, to the best of my ability, encourage others so to do: So help me God." Which oath or affirmation may be administered by any registering officer.

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SEC. 4. That the commanding general of each district shall appoint as many boards of registration as may be necessary, consisting of three loyal officers or persons, to make and complete the registration, superintend the election, and make return to him of the votes, list of voters, and of the persons elected as delegates by a plurality of the votes cast at said election. * * *

II. In order to execute this provision of the act referred to with as little delay as possible, the commanding officers of the districts of Alabama, Georgia, and Florida will proceed immediately to divide those States into convenient districts for registration, aided by such information on the subject as they have or can obtain. It is suggested that the election districts in each State which in 1860 sent a member to the most numerous branch of the State legislature, will be found a convenient division for registration. It is desirable that in all cases the registers shall be civilians, where it is possible to obtain such as come within the provisions of the act, and are otherwise suitable persons; and that military officers shall not be used for this purpose except in case of actual necessity. The compensation for registers will be fixed hereafter, but the general rule will be observed of graduating the compensation by the number of recorded voters. To each list of voters shall be appended the oath of the register or registers that the names have been faithfully recorded and represent actual legal voters, and that the same man does not appear under different names. The registers are specifically instructed to see that all information concerning their political rights is given to all persons entitled to vote under the act of Congress; and they are made responsible that every such legal voter has the opportunity to record his name.

III. As speedily as possible, the names of persons chosen for registers shall be communicated to these headquarters for the approval of the commanding general.

IV. The district commander in each of the States comprised in this military district is authorized to appoint one or more general supervisors of registration, whose business it shall be to visit the various points where registration is being carried on; to inspect the operations of the registers; and to assure themselves that every man entitled to vote has the necessary information concerning his political rights, and the opportunity to record his name.

V. A general inspector, either an officer of the army or a civilian, will be appointed at these headquarters to see that the provisions of this order are fully and carefully executed.

VI. District commanders may, at their discretion, appoint the civil officers of the United States as registers, with such additional compensation as may seem reasonable and sufficient.

VII. The commanding officer of each district will give public notice when and where the registers will commence the registration, which notice will be kept public by the registers in each district during the whole time occupied in registration.

VIII. Interference by violence, or threats of violence, or other oppressive means to prevent the registration of any voter, is positively prohibited, and any person guilty of such interference shall be arrested and tried by the military authorities.

By command of Brevet Major General Pope:

J. F. CONYNGHAM,
First Lieut. 24th U. S. Infantry, A. A. A. General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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[General Orders No. 10.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, April 23, 1867.

The following paragraph from General Order No. 1, from these headquarters, is republished for the information of all concerned:

"PARAGRAPH III. It is clearly to be understood, however, that the civil officers thus retained in office shall confine themselves strictly to the performance of their official duties, and whilst holding their offices they shall not use any influence whatever to deter or dissuade the people from taking an active part in reconstructing their State government under the act of Congress to provide for the more efficient government of the rebel States, and the act supplementary thereto."

The words "shall not use any influence whatever" shall be interpreted in their widest sense, and held to mean advice, verbal or written, given to individuals, committees, or the public.

All officers in the military district are directed, and citizens are requested, to give immediate information of any infraction of this order, and to prevent misunderstanding on the subject, it is distinctly announced that any civil official, State or municipal, within this district, who violates the above order, will be deposed from his office and held accountable in such other manner as the nature of the case demands.

By command of Brevet Major General Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

Official:

G. K. SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

[General Orders No. 12.]

HEADQUARTERS THIRD MILITARY DISTRICT,
Atlanta, Georgia, May 1, 1867.

I. Colonel James F. Meline is hereby appointed general inspector of registration and chief of bureau of civil affairs for the third military district.

Communications relating to registration and all other civil affairs will be addressed to him.

II. Brevet Captain C. F. Rockwell, first lieutenant ordnance department, is hereby announced as chief ordnance officer third military district.

By order of Brevet Major General Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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[General Orders No. 13.]

HEADQUARTERS THIRD MILITARY DISTRICT,
Atlanta, Georgia, May 2, 1867.

Major E. D. Judd, paymaster United States army, having reported at these headquarters in compliance with orders from the War Department, is hereby announced as chief paymaster and disbursing officer of the civil fund, under the reconstruction act.

By command of Brevet Major General Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

Official:

G. K. SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

[General Orders No. 25.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, May 29, 1867.

I. The late disgraceful riot at Mobile, due mainly to want of efficiency or of inclination on the part of the mayor and chief of police to perform their obvious duty, seems to render it necessary that the military authorities of this district should explain to all such officials the position they occupy under the laws of the United States, and the manner in which they will be expected to discharge their trusts.

II. The late acts of Congress are prefaced with the statement that "no legal State government or adequate protection for life or property now exists in the rebel States of * * * Georgia, Alabama, and Florida;" and these acts, therefore, while proceeding to recognize the existing State governments as provisional merely, establish also a military supervisory government, which is made responsible for that security of life and property to citizens which was not possessed previous to their passage. The final responsibility for peace and security in the several States in this military district rests, therefore, with the military authorities; and in case the civil provisional officers in any part of it prove unable or unwilling to protect the people, it becomes necessary for the military power either to supersede them by military officers, or by other civil officers or organizations which will effect the object.

III. In order that the civil authorities in this district may understand precisely what is expected of them by the military authorities, the following rules are established:

IV. In cities or towns having municipal government the mayor and chief of police, or other civil officers possessing their authority, (where there is no mayor or chief of police,) are required to be present at every public political meeting or assemblage which occurs within the limits of their jurisdiction, with such police force and arrangements as will render disturbances or riots impracticable. It will be no excuse to say that such civil authorities did not know of the meeting, or did not apprehend disturbance. It is easy, by municipal regulation, to require that sufficient notice of any such meeting be given to the mayor or other proper authority to enable him to prepare for the suppression of disturbance; and it is proper, in the present excited state of the public mind, to make such

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arrangements as are necessary for the preservation of peace at all public political meetings, even if there be really no danger of disturbance. In any event, the civil officers above referred to, as well as those hereinafter mentioned, will guide themselves by this understanding.

V. At all public political meetings or assemblages held outside of town or city corporations, the sheriff of the county, or his deputy, or a deputy specially appointed for the occasion, will be present, and will, in case of need, organize a posse from the people on the ground, which he will hold separate from the body of the assemblage, to interpose, if necessary, to preserve the peace; but in selecting persons to serve as a temporary police force or posse, they are instructed not to summon any of the officers or public speakers of the assemblage. Sheriffs, or their deputies, are empowered to exact service from all persons thus summoned as a posse, and to require that due notice shall be given to the sheriffs themselves of any public political meetings or assemblages which may be called in their respective counties, in time to make the arrangements herein indicated.

VI. It is to be distinctly understood that the duty of the proper municipal authorities and the sheriffs of counties is to preserve the peace, and to assure their rights and privileges to all persons who desire to hold public meetings not in violation of law, and to take all precautions to prevent the invasion of such rights and privileges.

VII. In case of any riot or disturbance, if it cannot be clearly shown that the civil officers above indicated were present, and did actively and faithfully perform their duties, both by word and deed, such officers will be deposed from their offices, and otherwise held responsible by the military authorities to the full extent of the neglect or criminality manifested by them.

VIII. All commanders of troops in this district are also instructed to render to the above-mentioned civil officers, on their application, whatever military aid may be needed, and the military commanders are directed to send a judicious and careful officer, to be present at such political meetings herein referred to, as may occur within the limits of their jurisdiction. Every officer thus detailed, while not interfering with the civil officers in the performance of their duties, will stand ready to interpose, and, if necessary, to bring such military force to the spot, as the necessities of the case may demand.

IX. Post and detachment commanders within this district are directed to keep themselves advised of all public political meetings which take place within the limits of their jurisdiction, and during such meetings to hold themselves and their commands in readiness for immediate action at the call of the officer whom they are directed in a previous paragraph of this order to send to such meetings. Commanding officers are informed that they will be held to their full share of responsibility for any want of precautionary measures or prompt action to prevent riots or to arrest disturbers of the peace.

X. The commanding general believes that ordinary good faith, on the part of the civil officials above mentioned, in taking the precautionary steps indicated in this order, and in performing their obvious duty, will secure the people of this district from riots or riotous proceedings; and he sincerely hopes that no occasion may arise (as none need arise) for any active participation of the military in the execution of law and the protection of citizens in their legal rights and privileges.

By command of Brevet Major General Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry, A. A. A. General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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Acts of Congress, general orders, and instructions for the guidance of boards of registration in the third military district, (Georgia, Alabama, and Florida.)

AN ACT to provide for the more efficient government of the rebel States.

Whereas no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States until loyal and republican State governments can be legally established: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That said rebel States shall be divided into military districts and made subject to the military authority of the United States as hereinafter prescribed; and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama, and Florida the third district; Mississippi and Arkansas the fourth district; and Louisiana and Texas the fifth district.

SEC. 2. *And be it further enacted*, That it shall be the duty of the President to assign to the command of each of said districts an officer of the army not below the rank of brigadier general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

SEC. 3. *And be it further enacted*, That it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals, and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose, and all interference, under color of State authority, with the exercise of military authority under this act, shall be null and void.

SEC. 4. *And be it further enacted*, That all persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted; and no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district; and the laws and regulations for the government of the army shall not be affected by this act, except in so far as they conflict with its provisions: *Provided*, That no sentence of death, under the provisions of this act, shall be carried into effect without the approval of the President.

SEC. 5. *And be it further enacted*, That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion, or for felony at common law; and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates; and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates; and when such constitution shall have been submitted to Congress for examination and approval; and Congress shall have approved the same; and when said State, by a vote of its legislature elected under said constitution, shall have adopted the amendment to the Constitution of the United States proposed

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by the thirty-ninth Congress, and known as article fourteen; and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress, and senators and representatives shall be admitted therefrom on their taking the oath prescribed by law; and then and thereafter the preceding sections of this act shall be inoperative in said State: *Provided*, That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States shall be eligible to election as a member of the convention to frame a constitution for any of said rebel States, nor shall any such person vote for members of such convention.

SEC 6. *And be it further enacted*, That until the people of said rebel States shall be by law admitted to representation in the Congress of the United States, any civil government which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same; and in all elections to any office under such provisional governments all persons shall be entitled to vote, and none others, who are entitled to vote under the fifth section of this act; and no person shall be eligible to any office under any such provisional governments who would be disqualified from holding office under the provisions of the third article of said constitutional amendment.

SCHUYLER COLFAX,
Speaker of the House of Representatives.
LA FAYETTE S. FOSTER,
President of the Senate pro tempore.

AN ACT supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March second, eighteen hundred and sixty-seven, and to facilitate restoration.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That before the first day of September, eighteen hundred and sixty-seven, the commanding general in each district defined by an act entitled "An act to provide for the more efficient government of the rebel States," passed March second, eighteen hundred and sixty-seven, shall cause a registration to be made of the male citizens of the United States, twenty-one years of age and upwards, resident in each county or parish in the State or States included in his district, which registration shall include only those persons who are qualified to vote for delegates by the act aforesaid, and who shall have taken and subscribed the following oath or affirmation: "I, ——, do solemnly swear (or affirm) in the presence of Almighty God, that I am a citizen of the State of ———; that I have resided in said State for ——— months next preceding this day, and now reside in the county of ———, or the parish of ———, in said State, (as the case may be;) that I am twenty-one years old; that I have not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any State or of the United States; that I have never been a member of any State legislature, nor held any executive or judicial office in any State and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I will faithfully support the Constitution and obey

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the laws of the United States, and will, to the best of my ability, encourage others so to do: So help me God;" which oath or affirmation may be administered by any registering officer.

SEC. 2. *And be it further enacted*, That after the completion of the registration hereby provided for in any State, at such time and places therein as the commanding general shall appoint and direct, of which at least thirty days' public notice shall be given, an election shall be held of delegates to a convention for the purpose of establishing a constitution and civil government for such State loyal to the Union, said convention in each State, except Virginia, to consist of the same number of members as the most numerous branch of the State legislature of such State in the year eighteen hundred and sixty, to be apportioned among the several districts, counties, or parishes of such State by the commanding general, giving to each, representation in the ratio of voters registered as aforesaid as nearly as may be. The convention in Virginia shall consist of the same number of members as represented the territory now constituting Virginia in the most numerous branch of the legislature of said State in the year eighteen hundred and sixty, to be apportioned as aforesaid.

SEC. 3. *And be it further enacted*, That at said election the registered voters of each State shall vote for or against a convention to form a constitution therefor under this act. Those voting in favor of such a convention shall have written or printed on the ballots by which they vote for delegates, as aforesaid, the words "For a convention," and those voting against such a convention shall have written or printed on such ballots the words "Against a convention." The persons appointed to superintend said election, and to make return of the votes given thereat, as herein provided, shall count and make return of the votes given for and against a convention; and the commanding general to whom the same shall have been returned shall ascertain and declare the total vote in each State for and against a convention. If a majority of the votes given on that question shall be for a convention, then such convention shall be held as hereinafter provided; but if a majority of said votes shall be against a convention, then no such convention shall be held under this act: *Provided*, That such convention shall not be held unless a majority of all such registered voters shall have voted on the question of holding such convention.

SEC. 4. *And be it further enacted*, That the commanding general of each district shall appoint as many boards of registration as may be necessary, consisting of three loyal officers or persons, to make and complete the registration, superintend the election, and make return to him of the votes, list of voters, and of the persons elected as delegates by a plurality of the votes cast at said election; and upon receiving said returns he shall open the same, ascertain the persons elected as delegates, according to the returns of the officers who conducted said election, and make proclamation thereof; and if a majority of the votes given on that question shall be for a convention, the commanding general, within sixty days from date of election, shall notify the delegates to assemble in convention, at a time and place to be mentioned in the notification, and said convention, when organized, shall proceed to frame a constitution and civil government according to the provisions of this act, and the act to which it is supplementary; and when the same shall have been so framed, said constitution shall be submitted by the convention for ratification to the persons registered under the provisions of this act at an election to be conducted by the officers or persons appointed or to be appointed by the commanding general, as hereinbefore provided, and to be held after the expiration of thirty days from the date of notice thereof, to be given by said convention; and the returns thereof shall be made to the commanding general of the district.

SEC. 5. *And be it further enacted*, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the registered electors qualified as herein specified, cast at said election, at least one-half of all the

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registered voters voting upon the question of such ratification, the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling; and if it shall, moreover, appear to Congress that the election was one at which all the registered and qualified electors in the State had an opportunity to vote freely, and without restraint, fear, or the influence of fraud, and if the Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors in the State, and if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation, and senators and representatives shall be admitted therefrom as therein provided.

SEC. 6 *And be it further enacted*, That all elections in the States mentioned in the said "Act to provide for the more efficient government of the rebel States," shall, during the operation of said act, be by ballot; and all officers making the said registration of voters, and conducting said elections, shall, before entering upon the discharge of their duties, take and subscribe the oath prescribed by the act approved July second, eighteen hundred and sixty-two, entitled "An act to prescribe an oath of office:" *Provided*, That if any person shall knowingly and falsely take and subscribe any oath in this act prescribed, such person so offending, and being thereof duly convicted, shall be subject to the pains, penalties, and disabilities which by law are provided for the punishment of the crime of wilful and corrupt perjury.

SEC. 7. *And be it further enacted*, That all expenses incurred by the several commanding generals, or by virtue of any orders issued, or appointments made by them, under or by virtue of this act, shall be paid out of any moneys in the treasury not otherwise appropriated.

SEC. 8. *And be it further enacted*, That the convention for each State shall prescribe the fees, salary, and compensation to be paid to all delegates and other officers and agents herein authorized or necessary to carry into effect the purposes of this act, not herein otherwise provided for, and shall provide for the levy and collection of such taxes on the property in such State as may be necessary to pay the same.

SEC. 9. *And be it further enacted*, That the word "article," in the sixth section of the act to which this is supplementary, shall be construed to mean "section."

SCHUYLER COLFAX,
Speaker of the House of Representatives.
B. F. WADE,
President of the Senate pro tempore.

[General Orders No. 20.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, May 21, 1867.

In accordance with an act of Congress supplementary to "An act to provide a more efficient government for the rebel States," &c., dated March 2, 1867, the following arrangements are herein made for the registration of voters in the States of Georgia and Alabama:

I. The States of Georgia and Alabama are divided into registration districts, numbered and bounded as hereinafter described.

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II. A board of registration is herein appointed for each district, as above mentioned, to consist of two white registers and one colored register. In the State of Georgia, where only the two white registers are designated in this order, it is directed that these white registers in each district immediately select, and cause to be duly qualified, a competent colored man to complete the board of registration, and report his name and post office address, without delay, to Colonel C. C. Sibley, commanding district of Georgia, at Macon, Georgia.

III. Each register will be required to take and subscribe the oath prescribed by Congress, by an act dated July 2, 1862, and an additional oath to discharge faithfully the duty of register under the late acts of Congress. It is not believed that any of the appointees, hereinafter designated, will be unable to take the test oath above mentioned. Blank forms of these oaths will be sent to the appointees at once, and on being executed and returned to the superintendents of State registration, their commissions as registers will be issued and forwarded to them immediately.

IV. In order to secure a full registration of voters, it is determined to fix the compensation of registers according to the general rule adopted in taking the census. In the cities, the compensation is fixed at fifteen cents for each recorded voter; in the most sparsely settled counties and districts, at forty cents per voter. The compensation will be graduated between these limits, according to the density of the population, and the facilities of communication. Ten cents per mile will be allowed for transportation of registers off the lines of railroads or steamboats, and five cents per mile when travel is done on railroads and steamboats.

V. It is hereby made the duty of all registers—and they will be expected to perform it strictly—to explain to all persons who have not heretofore enjoyed the right of suffrage, what are their political rights and privileges, and the necessity of exercising them upon all proper occasions.

VI. The name of each voter shall appear in the list of voters, for the precinct or ward in which he resides; and in cases where voters have been unable to register whilst the boards of registration were in the wards or precincts where such voters live, opportunity will be given to register at the county seats of their respective counties, at a specified time, of which due notice will be given; but the names of all voters thus registered will be placed on the lists of voters of their respective precincts.

VII. The boards of registration will give due notice, so that it may reach all persons entitled to register, of the date when they will be in each election precinct, the time they will spend in it, and the place where the registration will be made; and upon the completion of the registration for each county, the board of registration will give notice that they will be present for three successive days, at the county seat of such county, to register such voters as have failed to register, or been prevented from registering in their respective precincts, and to hear evidence in the cases of voters rejected by the registers in the several precincts, who may desire to present testimony in their own behalf.

VIII. Unless otherwise instructed hereafter, boards of registration are directed, in determining whether applicants to register are legally qualified, to hold that the terms "executive and judicial," in the act of Congress of March 23, 1867, comprise all persons whomsoever, who have held office under the executive or judicials departments of the State or national government; in other words, all officers not legislative, which last are also excluded by the act. Persons who apply to register, but who are considered disqualified by the boards, will be permitted to take the required oath, which, with the objections of the board, will be held for adjudication hereafter.

IX. The lists of registered voters, for each of the precincts, will be exposed in some public place in that precinct for ten consecutive days, at some time

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subsequent to the completion of the registration for each county, and before any election is held, in order that all supposed cases of fraudulent registration may be thoroughly investigated. Due notice will be given and provision made for the time and place for the examination and settlement of such cases.

X. Blank books of oaths, required to be taken by voters, and blank registration lists, as also full and detailed instructions for the performance of their duties, will be at once forwarded to the boards of registration, appointed in this order, and it is enjoined upon these boards that they proceed to complete the registration with all energy and despatch.

XI. The detailed instructions to registers will designate the member of each board who shall be its president.

XII. Violence, or threats of violence, or any other oppressive means to prevent any person from registering his name or exercising his political rights, are positively prohibited; and it is distinctly announced that no contract or agreement with laborers which deprives them of their wages for any longer time than that actually consumed in registering or voting, will be permitted to be enforced against them in this district; and this offence, or any previously mentioned in this paragraph, will cause the immediate arrest of the offender and his trial before a military commission.

XIII. The exercise of the right of every duly authorized voter, under the late acts of Congress, to register and vote, is guaranteed by the military authorities of this district; and all persons whomsoever are warned against any attempt to interfere to prevent any man from exercising this right under any pretext whatever, other than objection by the usual legal mode.

XIV. In case of any disturbance or violence at the places of registration, or any molestation of registers, or of applicants to register, the boards of registration will call upon the local civil authorities for a police force, or a posse, to arrest the offenders and preserve quiet, or, if necessary, upon the nearest military authorities, who are hereby instructed to furnish the necessary aid. Any civil officials who refuse, or who fail to protect the registers, or applicants to register, will be reported to the headquarters of the officer commanding in the State, who will arrest such delinquents and send charges against them to these headquarters, that they may be brought before a military commission.

By command of Brevet Major General Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry, A. A. A. General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Instructions to Registers.

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, June 1, 1867.

GENTLEMEN: I. In conformity with the fourth section of the supplementary act of Congress, passed March 23d, 1867, and by direction of Brevet Major General John Pope, commanding this district, you have been designated as members of a board of registration for the ——— election district, ———, comprising the count of ————, ————, in the State of ———.

II. I herewith transmit you copes of the laws of Congress in pursuance of which you are appointed, and under whose authority you are to act, and of General Order No. 20, from these headquarters, which, with these instructions, will be your guide in the performance of your duties.

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III. The necessary books and blanks will also be sent you.

IV. Your official oath having been forwarded to the superintendent of registration for your State, you will enter at once upon the performance of your duties.

V. Should one of you decline, or from permanent illness or other cause become incapacitated, the other two will, nevertheless, go on with the work, giving immediate notice of the vacancy, and forwarding at the same time the name of a person properly recommended, and capable of filling the vacant place.

VI. In this, as in other cases of official correspondence, you will address all letters and reports to the superintendent of registration for your State.

VII. Should there be but one register in readiness to serve, he will report the fact immediately, but will not enter upon his duties until advised so to do by the superintendent.

VIII. Upon examination of the act of Congress you will find that you are to register the names of the male citizens of the United States, twenty-one years of age and upwards, resident in each county within your district, who shall have taken and subscribed the prescribed oath.

IX. You have been designated for this duty in the fullest confidence that you will perform it faithfully.

X. It is particularly enjoined upon you to see that all persons entitled to register fully know and understand all their rights and privileges, and you will take especial care to explain these rights and privileges, and the nature and importance of the right of suffrage, to those who have not heretofore enjoyed it.

XI. You will, as a preliminary step, cause the fact of your appointment to be known throughout your district by all means within your reach, and then proceed to carry out, in all its details, the directions given in section VIII, General Order No. 20, from these headquarters.

XII. The due notice referred to may include handbills, letters, notices posted up in public places, such as election polls, post offices, crossroads, taverns, stores, &c.

XIII. You will visit each and every election precinct in each and every county in your district, spending in each the number of days necessary to complete the registration, taking care that full and sufficient notice be given in advance, in order to secure the attention and attendance of every person entitled to register.

XIV. In proceeding to register, you will read distinctly to the person or persons to be registered, the oath prescribed by law and printed in the books of registration.

XV. You will cause each one to sign a separate copy in the book, and having duly administered the oath, one of you will immediately fill up and sign the certificate below, so that it will read, "Sworn to and subscribed before me, date, precinct, and county aforesaid." (Then follows signature.) "Register of the —— registration district."

XVI. That portion of the certificate beginning, "And further, that he was born in ————," and the two lines following, need only to be filled up in case of a foreign-born and naturalized citizen, and the blank after the printed words, "and naturalized by," will be filled up by the name of the court and judge before whom his naturalization papers were taken out. In all such cases registers will be careful to distinguish a certificate of naturalization from a declaration of intention to become a citizen; the latter, or declaration of intention, being of no value in this connection, and conferring no quality of citizenship. And no certificate of naturalization issued under the authority of the so-called Confederate States, or of any pretended State governments under the same, will be considered valid.

XVII. If any person apply to register, whom you consider as excluded by law, you will permit such persons, if they desire it, to take the prescribed oath,

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and will attest the same. You will then write across the printed certificate the word, "excluded," and note below in as few words as possible the character of your objection.

XVIII. A full and accurate list of all persons thus excluded will be made and preserved, and their several applications will be inquired into and adjudicated as specified in section VIII, General Order No. 20.

XIX. In addition to the book of oaths, you will receive registration books sufficient for all the counties in your district; these books will be your official record, and in their use the utmost neatness, care, and accuracy are enjoined. They are to be used in duplicate—that is to say, the entries will be repeated, or made simultaneously in two books, so that you will have two (2) complete and exactly similar lists of registered voters for each and every precinct in your district. You will be careful that these two lists are kept separate, that is to say, one register will keep and care for one list, and another register the other list, so that in case either of the books of voters is lost or defaced, the other will be available. If more than two (2) sets of books are needed for a county, you will use another set, but you will be careful to close the books when the registration is completed for the county for which those books were opened, and open a new set for the next county in order. The object of this arrangement is, that the registration for each county may be complete and separaae.

XX. From the book of oaths you will copy into the books of registration for each county the particulars necessary to fill the several columns, viz: Date, name, book, page, color, residence, and in cases of naturalization, how, when, and where naturalized. Under the head of Remarks, you will add anything you may consider necessary to explain, or throw light upon the position, or qualification of the person registered.

XXI. In the same books you will be careful to keep each precinct separate, and for that purpose the record of registration for each precinct of its proper county will be separated from the preceding and the following one, by one or more blank pages.

XXII. In thus entering the names of voters in each precinct, you will write the surname first, thus: if the voter's name be John Smith, you will enter it Smith, John; if his name be Thomas Hutchings, you will enter it Hutchings, Thomas, and in similar manner for all names.

XXIII. As fast as the registration of each county is completed, the books of registration, as also the book of oaths for that county, will be despatched by express, or other safe and speedy means, to the superintendent of registration for your State.

XXIV. If any doubt arise in the mind of the board concerning any article in these instructions, or concerning any case which may come before it which the registers cannot themselves determine by a vote of the board, application for information will be made to the superintendent, who will immediately refer such cases to these headquarters for a decision.

By command of Brevet Major General John Pope:

JAS. F. MELINE,

Bvt. Col. and General Inspector of Registration, Third Military Dist.

[General Orders No. 28.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, June 3, 1867.

I. The interference of the post commander at Mobile with a newspaper of that city is unauthorized and entirely disapproved. He will at once undo whatever action he has taken.

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II. It is the duty of the military authorities in this district to secure to the people the utmost freedom of speech and of the press consistent with law and not to restrict either.

No satisfactory execution of the late acts of Congress is practicable unless this freedom is secured and its exercise protected by the usual legal means.

III. No officer or soldier in this command will hereafter interfere with newspapers or speakers on any pretext whatever.

If disturbance is feared from these sources the necessary precautions to preserve the peace will be taken in the manner and through the agencies prescribed in General Orders No. 25 from these headquarters.

IV. Treasonable utterances are not the legitimate exercise of freedom of discussion, but even in such cases whatever action is taken must be by direct orders from these headquarters, and not by any subordinate authority.

By command of Brevet Major General Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry, A. A. A. General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Orders No. 31.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, June 6, 1867.

Post and detachment commanders in this military district are directed to give all aid and assistance in their power to the board of registration in receiving and distributing any books or papers relating to registration, or orders or instructions relating thereto issued from these headquarters, the headquarters of the districts, or from superintendents of State registration.

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry, A. A. A. General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Special instructions to boards of registration in the State of Alabama.

HEADQUARTERS THIRD MILITARY DISTRICT,
Atlanta, Georgia, June 17, 1867.

In addition to the general instructions for the guidance of boards of registration for the States of Georgia, Florida, and Alabama, promulgated June 1, 1867, the following rules of construction will be followed by the boards of registration in the State of Alabama in carrying out the provisions of the first section of the supplementary act of Congress. (See Instructions, page 5.)

I. Persons entitled to registration on taking and subscribing the oath (page 5) are—

All male citizens of the United States twenty-one years of age and upward, of whatever race, color, or previous condition, who have been resident of the

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State for one year immediately preceding, and are exempt from the disqualifications hereinafter described.

II. Persons not entitled to registration and incapable of taking the oath (page 5) are those who have been disqualified as follows:

1. Those who were at any time members of Congress or officers of the United States, civil or military, and, as such officers, took an oath to support the Constitution of the United States; and all who were at any time members of any State legislature, or of any body that passed a State ordinance of secession, or executive or judicial officers of any State, and afterwards engaged in insurrection or rebellion against the United States, or gave aid and comfort to the enemies thereof.

It will be noticed that the words "at any time" apply to all who, at any time previous to the rebellion, held any of the offices named, some of which offices no longer exist.

The following will be regarded as executive and judicial officers of the State of Alabama within the meaning of the law:

Governor of the State, secretary of state, treasurer of State, comptroller of public accounts, sheriffs, judges of the supreme court, judges of circuit court, chancellors, registers in chancery, judges of the inferior court, judges of court county commissioners, judges of probate, justices of the peace, coroners, clerks of circuit court, clerks of the supreme court, clerks of the inferior court, marshals of supreme court, attorney general, county commissioners, solicitor general, tax collectors, tax assessors, county surveyor, county treasurer, reporters of the supreme court, judges of any city or other court of special jurisdiction, mayor, recorder, aldermen, councilmen of any incorporated city or town who are *ex officio* justices of the peace.

2. Tax receivers and tax collectors who have acted in levying or collecting moneys in aid of the rebellion.

3. Any judicial or executive officer not herein named, who has exercised his official functions in furnishing men, money, munitions of war, or any material aid in favor of the rebellion.

4. Those persons who have been convicted of felony against the laws of any State or of the United States.

5. All executive or judicial officers who held or exercised the functions of any officer under the so-called confederate government, or the government of any one of the United States, which functions were of a nature to aid in prosecuting the war or in aiding hostile preparation or action, and all who engaged in the rebellion or gave aid and comfort to the enemies of the United States.

6. Those executive or judicial officers who voluntarily furnished supplies of food, clothing, arms, ammunition, animals, or any other material of war, or labor, or service of any kind to the confederate military or naval forces, or money by loan or otherwise to the confederate government, or aided in any way the raising, organizing, or equipment of troops, gave aid and comfort to the ememy, and participated in the rebellion and civil war against the United States.

III. Ministering to the wants of the sick and wounded, or giving individual soldiers food to relieve present suffering, are merely acts of charity, and do not constitute "giving aid and comfort to the enemy." The parent who gave a son in armed hostility food and clothing for his own use, might do so without hostile intent. If he gave him a horse, gun, or anything else to be used for hostile purpose, he thereby gave aid and comfort to the enemy.

IV. Boards of registration will adhere strictly to directions published in General Order No. 20, instructions of June 1, and to these special instructions, and will use every effort to secure a just and fair registration in accordance therewith.

If any who are entered on the registration list, and rejected by the board after

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examination, still believe they are entitled to vote and desire to take the prescribed oath, the oath may be administered, and the fact of its being taken recorded opposite the name of the party.

Members of boards in large towns will use special diligence to prevent fraudulent registration of persons disqualified by felony, non-residence, minority, or want of citizenship.

V. Registering officers are hereby empowered to administer oaths to witnesses who may be summoned by the board in any case of contested registration.

VI. The third section of the constitutional amendment referred to in section 6, act of March 2, 1867, (see Instructions, page 4,) is here published for the information of boards of registration. It is as follows:

"No person shall be a senator or representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability."

By command of Brevet Major General Pope:

JAMES F. MELINE,
Brevet Colonel, General Inspector of Registration Third Mil. Dist.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Special orders from headquarters third military district.

[Special Orders No. 2.—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, April 16, 1867.

I. The municipal election held at Tuscumbia, Alabama, on the first day of April, 1867, being in violation of orders of the General-in-chief of the army, as well as orders from these headquarters, and not having been conducted in the manner and according to the rule laid down in the acts of Congress, is hereby declared null and void.

II. Lemuel S. Coburn is appointed mayor of Tuscumbia, and will be obeyed and respected accordingly.

* * * * * *

JOHN POPE,
Brevet Major General U. S. Army, Commanding.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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[Special Orders No. 8.—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, April 25, 1867.

I. A vacancy having occurred in the city council of Atlanta, Georgia, by the resignation of A. P. Bell, of the fifth ward, E. W. Holland, esq., is appointed to the council in his place.

* * * * * *

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry, A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official: E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 9.—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, April 26, 1867.

I. A new county named Colbert having been formed in Alabama, the following named persons are hereby appointed to fill the offices of that county, viz:

Charles Womble, to be probate judge;

James W. Legor, to be sheriff;

Joseph Skidmore, to be clerk of circuit court.

II. George P. Sanders, probate judge of Sumter county, Alabama, having been represented as intemperate and generally worthless, and having been presented to the grand jury of his county as totally unfit for the position, is hereby deposed from his office.

III. John Walker, of Coosa county, Alabama, is hereby appointed to fill the vacancy of tax collector of that county.

* * * * * *

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry, A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official: E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 10.—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA AND FLORIDA,)
Atlanta, Georgia, April 27, 1867.

I. William H. Spiers is hereby appointed to fill the vacancy of tax collector of Lowndes county, Alabama.

* * * * * *

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry, A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official: E. D. TOWNSEND,
Assistant Adjutant General.

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[Special Orders No. 12.—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, May 1, 1867.

I. The terms of office of the mayor and board of aldermen of Augusta, Georgia, having expired, the following officers are appointed in their place until registration can be completed and an election held in accordance with the laws of the United States, viz:

Foster Blodgett, mayor.

ALDERMEN—*First ward.*—James B. Bishop, Thomas N. Philpot, Henry T. Peay.

Second ward—Ephraim Tweedy, Samuel Leary, Joseph B. Reynolds.

Third ward.—Benjamin Conley, William H. Tutt, Jacob B. Platt.

Fourth ward.—David L. Routh, R. B. Bullock, Otis G. Lynch.

* * * * * *

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33*d U. S. Infantry, A. A. A. General.*

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 14.—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA.)
Atlanta, Georgia, May 3, 1867.

* * * * * *

III. Colonel E. Hurlbert is hereby appointed superintendent of registration for the State of Georgia.

He will proceed to Macon, Georgia, and report to Colonel C. C. Sibley, commanding district of Georgia, and will act in conjunction with that officer.

* * * * * *

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33*d U. S. Infantry, A. A. A. General.*

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 15.—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, May 4, 1867.

* * * * * *

II. In compliance with the recommendation of Brevet Brigadier General Truman Seymour, commanding post of Pensacola, Florida, it is ordered that

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Major [Mayor] William E. Anderson and the board of aldermen lately elected continue to exercise the duties of their several offices.

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry, A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 16.—Extract.],

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, May 6, 1867.

* * * * * *

IV. Gustavus Horton, of Mobile, Alabama, is hereby appointed to fill the vacancy in the board of school commissioners for Mobile county, Alabama, caused by the death of the late incumbent.

* * * * * *

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry, A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 18.—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, May 9, 1867.

I. William H. Vincent, of Cherokee county, is hereby appointed tax assessor for said county, to fill the vacancy caused by the resignation of the late incumbent.

* * * * * *

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry, A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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[Special Orders No. 19.—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, May 10, 1867.

* * * * * *

II. Israel W. Roberts, of Montgomery, Alabama, is hereby appointed county commissioner of Montgomery county, Alabama.

III. William H. Buckley, of Lowndes county, Alabama, is hereby appointed county commissioner of said county.

IV. James H. Goodwin is hereby appointed justice of the peace for Greenwood Beat, Bullock county, Alabama.

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry, A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 20.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, May 13, 1867.

I. Thomas B. Law, of Hernando county, Florida, is hereby appointed justice of the peace for the third judicial district of said county.

II. So much of paragraph III of Special Orders No. 9, (current series,) from these headquarters, as appoints John Walker tax collector of Coosa county, Alabama, is amended so as to read tax assessor.

III. Benjamin F. Safford is hereby appointed mayor of the city of Selma, Alabama.

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry, A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 21.—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA.)
Atlanta, Georgia, May 14, 1867.

* * * * * *

III. An investigation by a competent officer having revealed the fact that there has been gross neglect of duty on the part of William Aycock, sheriff, and Augustus Franklin, deputy sheriff, of Bartow county, Georgia; that criminals have escaped and loyal men have been unable to secure justice through their negligence or connivance, they are hereby deposed.

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IV. W. L. Goodwin, of Cartersville, is hereby appointed sheriff, and Aaron Collins deputy sheriff, of Bartow county, Georgia.

* * * * * *

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 22.—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, May 15, 1867.

* * * * * *

III. Thomas L. Bevill, of Sumter county, is hereby appointed sheriff of said county, to fill the vacancy caused by the resignation of the late incumbent.

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 24.—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, May 17, 1867.

* * * * * *

II. Abner Jones, sheriff of Talladega county, Alabama, having been found unqualified for the position, is hereby deposed, and F. M. Shoute, of Talladega county, Alabama, is hereby appointed sheriff in his place.

III. Henry S. Urquhart, of Pike county, Alabama, is hereby appointed judge of the court of criminal jurisdiction established in said county.

IV. Jesse T. Fells, of Macon county, Alabama, is hereby appointed tax collector of said county, the late collector having removed to another county.

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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[Special Orders No. 25.—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, May 20, 1867.

* * * * * *

III. Solomon E. Jordan, of Randolph county, is hereby appointed sheriff of said county, to fill the vacancy caused by the resignation of the late incumbent.

IV. Burril T. Pope is hereby appointed judge of the twelfth judicial circuit, Alabama, the position of that circuit never having been filled.

* * * * * *

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry, and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 26.—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, May 21, 1867.

* * * * * *

II. The following named persons are hereby appointed to fill the positions affixed opposite their respective names in said county:

William King, tax assessor; Samuel M. Stevenson, tax collector; N. T. Underwood, county treasurer; John C. Blanton, county school superintendent; Richard L Johnson, surveyor; James W. Alexander, Josiah Horn, Hector Atkinson, Armstead Payne, commissioners of records and revenue.

* * * * * *

IV. The following named persons of Jones county, Alabama, are hereby appointed to fill the positions affixed opposite their respective names in said county:

Burrel L. Falkner, probate judge; George E. Brown, circuit clerk; William Boyd, sheriff; M. V. Brewer, tax collector; Peter McGee, tax assessor; David E. Woods, county treasurer; William Brown, Jasin Quin, Newton F. Morton, U. C. York, commissioners of records and revenue.

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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[Special Orders No. 27.—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, May 22, 1867.

* * * * * *

II. The following named persons are hereby appointed to fill the positions set opposite their respective names in the municipal corporation of Gainesville, Florida, to take effect on expiration of the term of service of the present incumbents:

Mayor.—S. Spencer.

Aldermen.—W. J. McCormick, J. F. Mathews, Dr. Howard, J. W. McRace, James Dorg, J. M. Richardson, J. W. Grisson, C. Raines.

Recorder, treasurer and marshal.—T. B. Sweether.

III. Major General Wager Swayne, commanding district of Alabama, will proceed to Mobile, Alabama, to examine into the causes of the recent riot at that place, to make such changes in the city government as may be necessary, upon the completion of which he will return to these headquarters.

* * * * * *

VII. It being made manifest by the report of Colonel O. L. Shepherd, 15th United States infantry, commanding at Mobile, that the mayor of that city, although there was apprehension of a disturbance at the public meeting at which the Hon. Mr. Kelley, of Pennsylvania, was to speak, absented himself from the point where such disturbance was feared and remained in his house, a mile and three-quarters distant, until his presence was demanded some time after the riot began and after several men had been killed or wounded, and that the said mayor had made no sufficient preparation, notwithstanding the well-founded fears of the people, to prevent the expected riot or to arrest disturbers of the peace, and it being further apparent by the same report and the report of Major General Swayne, commanding district of Alabama, that the chief of police wholly failed to perform his duty, either because he was in sympathy with the rioters or was entirely inefficient, it is hereby ordered that the mayor and chief of police of the city of Mobile be deposed from their office.

VIII. Gustavus Horton is appointed mayor; C. A. R. Dimon, chief of police, of the city of Mobile. They will be installed immediately by Colonel O. L. Shepherd, 15th United States infantry, commanding at Mobile, and this officer will give all military assistance needed by these officials in reorganizing the city government and police force and preserving the peace of the city.

IX. The commanding officer, district of Alabama, will assure himself that these orders are executed, and will take such other measures as will preclude the probability of any recurrence of such disgraceful riots at Mobile.

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 28.—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, May 23, 1867.

* * * * * *

II. Second Lieutenant C. A. Ernest, 33d United States infantry, will proceed in charge of a detachment of one (1) sergeant, two (2) corporals, and fifteen (15)

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privates from company C, 5th United States cavalry, and take station at Adairsville, Georgia, acting in conjunction with W. L. Goodwin, sheriff of Bartow county, in arresting such parties as may be designated to him by said sheriff in such measure as may be necessary to preserve the peace.

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 31.—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, May 27, 1867.

* * * * * *

II. L. C. Coulson, of Jackson county, Alabama, is hereby appointed circuit clerk of said county, to fill the vacancy caused by the resignation of the late incumbent.

By command of Brevet Major General John Pope:

G. K, SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 32.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, May 24, 1867.

I. W. J. Reynolds, of Montgomery county, Alabama, is hereby appointed bailiff of precinct No. 9 of said county.

II. Thomas H. Smith, of Wetumpka, Alabama, is hereby appointed clerk of said city, to fill the vacancy caused by the death of the late incumbent.

III. William Johnson, of Tuscaloosa county, Alabama, is hereby appointed constable of beat No. 16 of said county.

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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[Special Order No. 34.—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA.)
Atlanta, Georgia, May 31, 1867.

* * * * * *

III. In pursuance of the recommendation made by Major General Wager Swayne, commanding district of Alabama, in his communication of the 20th instant, touching the recent disturbance at Mobile, Alabama, and for the reasons therein stated, the offices of city tax collector, city treasurer, and the boards of aldermen and common council of the city of Mobile, are hereby vacated by the removal of the present incumbents, and the following named persons are appointed in their stead:

To be city tax collector—William Hurter.

To be city treasurer—Willard Freeman.

To be members of the board of aldermen:

Ward No. 1, B. Moog and S. W. Fosdick; ward No. 2, P. McCafferty and Fred Bomberg; ward No. 3, J. H. Duvall and W. H. Lemkauf; ward No. 4, J. D. Spear, Jonathan Kirkbride, and M. S. Foote; ward No. 5, Thomas Manser and James Bligh; ward No. 6, James Shaw, W. D. Gerron, and W. G. Johnson; ward No. 7, Dr. J. W. Coale and R. J. McLarrin; ward No. 8, Thomas R. Sumrall, Charles Partridge, and J. R. Eastburn.

To be members of the common council:

Ward No. 1, John Grant; ward No. 2, G. W. Tarleton; ward No. 3, Newton St. John; ward No. 4, Robert S. Bunker; ward No. 5, B. F. Scattergood; ward No. 7, Belthazar Tardy.

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 35.—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, June 1, 1867.

I. Volney Boardman, of Hale county, Alabama, is appointed circuit clerk of said county.

II. William H. Grant, of Marengo county, Alabama, is appointed solicitor of said county, the expiration of the term for which the late incumbent was elected having expired.

III. Frank A. Royal, of Marengo county, Alabama, is appointed sheriff of said county.

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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[Special Orders No. 36—Extract]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, June 3, 1867.

* * * * * *

II. William Tarver, of Morgan county, Alabama, is appointed constable of beat No. 6 of said county, to fill the vacancy caused by the resignation of the late incumbent.

III. R. J. Jennings, of Franklin county, Alabama, is appointed superintendent of schools of said county.

IV. R. T. Simpson is appointed a member of the common council of Camden, Alabama; the present incumbent, H. P. C. Delaney, not being able to qualify under the law.

* * * * * *

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

_____ _____,
Assistant Adjutant General.

[Special Orders No. 37—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, June 5, 1867.

* * * * * *

II. Samuel C. Ward, of Cherokee county, Alabama, is appointed clerk of the circuit court of said county, to fill the vacancy caused by the death of William H. Stiff, the late incumbent.

* * * * * *

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 38—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, June 6, 1867.

I. The following appointments of municipal officers are made in the city of Mobile, Alabama:

To be members of the board of aldermen:

Ward No. 1, Thomas J. Reily; ward No. 2, Jarvis Turner; ward No. 3, J. T. O. Grady; ward No. 5, T. E. Flannery; ward No. 7, Joseph E. Smith.

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To be members of the board of common council:
Ward No. 6, John Hurtel; ward No. 8, J. J. Jones.

* * * * * *

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 39—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, June 8, 1867.

I. Pierson Glover, of Marengo county, Alabama, is appointed tax collector of said county, to fill the vacancy caused by the resignation of the late incumbent.

II. Daniel P. Lewis is appointed judge of the city court of Huntsville, Alabama.

III. George P. Goldthwaite, jr., is appointed county solicitor of said county.

IV. The following appointments made by the city council of Selma, Alabama, are confirmed:

For policemen—W. C. Cowey, R. M. Roberts, S. G. Eskew, J. Frith, W. Lightle, W. Hammell, S. H. King, Washington Mitchell, Thomas Todd, Henry Robinson.

City wharfinger—Robert H. Crosswell.

City sexton—Peter Plattenburg.

Assistant tax collector—R. C. Goodrich.

* * * * * *

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 40—Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
Atlanta, Georgia, June 10, 1867.

* * * * * *

II. John Partridge is appointed a member of the council of the city of Appalachicola, Florida, to fill the vacancy caused by the death of R. G. Porter.

* * * * * *

By command of Brevet Major General John Pope:

G. K. SANDERSON,
Captain 33d U. S. Infantry and A. A. A. General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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FOURTH DISTRICT.

OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., March 11, 1867.

[From Little Rock, Arkansas, March 8, 1867.—Received 5.30 p. m., in cipher.]

General U. S. GRANT:

The law creating military districts authorizes commanders to allow local civil tribunals to try offenders. Does this mean existing tribunals regardless of eligibility under sixth section?

E. O. C. ORD.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at the Adjutant General's office, July 8, 1867.

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, March 27, 1867.

GENERAL: In accordance with instructions, I have the honor to enclose a copy of Order No. 1. General Gillem, district commander, informs me that the 24th infantry is the only regiment, or troops, in this State; that he has but fifteen company officers for duty. I have not (owing to failure of eastern mails up to the 23d instant) received General Grant's Order No. 10, nor official copy of either law of Congress defining duties of district commanders; please send me special copies. From what I can learn, there are but few counties in this State where loyal men can be found to perform the duties of registering voters. In a majority of counties in this State and in Arkansas, a military force will be the first thing applied for by persons appointed to register voters, upon the ground that they would be unsafe without military protection. I shall have to forward their applications, because the force at present in this State, or available, will not suffice for one-third the counties, *nor is any of it mounted.* I propose organizing for the registering duty as many parties of mounted men as possible, and to require them to take the counties in succession. General Gillem is of opinion that the parties should not be less than twenty each. I therefore have directed the chief quartermaster to apply for five hundred horses to mount fifteen or twenty parties; half the horses will probably break down on the first march. I shall require all the company and regimental officers, as the non-commissioned are recruits and unfit to be trusted with independent commands. I propose, in appointing the registers of voters and judges of election, to select two out of every three from the late volunteer officers of our army when it is practicable, and the third as loyal a citizen as can be found, when there is one. In order to reach the freedmen on the plantations *at all* with the law of Congress, the Freedmen's Bureau should have an agent in every county; now there are but eleven in the sixty counties of this State, and but fifteen who can be of any use in the fifty-five counties of Arkansas. I intended to visit every county in the latter State and make appointments, but nearly half the State is under water; all travel is suspended in that half, and a large part of Mississippi presents the same gloomy waste of waters. I hope, general, I shall receive for this district a fair share of the funds appropriated by the law of Congress, to defray the expenses of organizing it. My impression is that General Sickles, for a district but little more than half as large as this, has nearly twice the number of troops. General Sherman has authorized me to keep the 28th infantry; but four of its

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companies will have to remain at Forts Arbuckle and Gibson until relieved, which will probably not be until July or August, too late for me. I can, however, get along in Arkansas with 16 companies; here in Mississippi I should have two regiments at least, and during the registering, I think General Thomas, or the department of the Cumberland, having no such work, could spare at least one regiment—that at Memphis.

I am, general, your obedient servant,

E. O. C. ORD,
Brevet Major General Commanding.

Major General JOHN A. RAWLINS,
Chief of Staff, Headquarters Armies U. S.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 9, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at the Adjutant General's office, July 8, 1867.

[Telegram.—Received 9.20 p. m.]

VICKSBURG, MISSISSIPPI, *May* 2, 1867.

Hon. EDWIN M. STANTON, *Secretary of War:*

Two (2) reliable officers to take charge of the registration, one in each State of this district, are much needed; also a judge advocate and inspector general.

E O C. ORD,
Brevet Major General.

Official copy:

E. D. TOWNSEND,
Assistant Adjutant General.

[Telegram.]

WAR DEPARTMENT, *Washington, May* 10, 1867.

Major General ORD, *Commanding Fourth Military District, Vicksburg, Miss.:*

It has to-day been represented by Mr. Walker to the Supreme Court, first, that you have dispersed the legislature of Arkansas and have seized and taken from the treasurer of that State the public money and records and property of the State; second, that you threaten also to do the same or similar acts in respect to the legislature and public funds and property of the State of Mississippi.

The Attorney General desires to know the facts in respect to these allegations, in order that he may meet them in court.

You will, therefore, please make immediate and full report by telegraph of what you have done in Arkansas in reference to the subjects mentioned and the reasons therefor, and also whether you have made any threats or design to make any such seizures in Mississippi.

EDWIN M. STANTON,
Secretary of War.

Sent 3.25 p. m.

Official copy:

E. D. TOWNSEND,
Assistant Adjutant General.

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[Received 6.45 p. m.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 11, 1867.

SIR: Your telegram of to-day is received. I send herewith copies of my letter to Governor Murphy in regard to the legislature of Arkansas, and of my letter to Colonel Smith in reference to the State treasurer of Arkansas. I wrote the letter to Governor Murphy because the legislature was adjourned to the month of July next, for the purpose of trying two of the State judges, the case of one of whom was before them at the time of adjournment, and I believed that the third section of the act referred to in that letter imposed upon me the duty of protecting all persons in their rights of person, and of punishing, or causing to be punished, all criminals, and I believed that in these cases it would not conduce to that end to allow the legislature, as a local, civil tribunal, to take jurisdiction and try the accused, one of whom was, I believe, a loyal man, and who, I was satisfied, would be tried mainly for the reason that he had attempted in his judicial capacity, to protect loyal men from being tried by disloyal, and therefore, in the State, filling at the time manifestly unfair juries. The letter to Colonel H. Smith was written because I had reason to believe that the State treasurer had been or would be called on to receive as State funds scrip or warrants which were issued by assumed State authority during the rebellion, and which I learned were, under a recent decision of the supreme court of the State of Arkansas, (case of Jacob Hawkins *versus* L. M. Filkins,) receivable for dues. I also believed that he would improperly dispose of the State funds—all this to the injury of the community—and that the act of Congress made it my duty to protect the community from injury.

I have made no threats to depose any civil officer of the State of Mississippi, except for failure to do impartial justice to offenders, or persons accused of offences.

No civil officer in Mississippi has been deposed by me, or by my orders, unless the trial of certain civil offenders by military commission, authorized in the act of Congress of March 2, 1867, and recently ordered by me in special cases, may be considered as deposing the civil authority, who might otherwise have tried the cases. No threats to depose or interfere with the legislature of Mississippi have been made by me. I design to make no seizures of State property at present in this State, unless I find that the law of Congress cannot otherwise be enforced.

Hon. E. M. STANTON,
Secretary of War.

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., April 15, 1867.

SIR: Will you, through the proper channel and in the most expeditious manner, please inform the members of the provisional legislature of the State of Arkansas, recently in session, that their reconvening is incompatible with the act of Congress to provide for a more efficient government of the rebel States, passed March 2, 1867, and that they therefore will not reassemble, as may have been appointed by them. Please acknowledge the receipt of this letter, and state the steps which you may have taken in accordance therewith.

I am, sir, with great respect, your obedient servant,

E. O. C. ORD,
Brigadier General Commanding.

Hon. ISAAC MURPHY,
Governor State of Arkansas, Little Rock.

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HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., April 15, 1867.

SIR: Please direct an officer of your staff to call at once on the treasurer of the provisional government of the State of Arkansas and learn if he is eligible to hold office under the third section of the joint resolution providing an amendment to the Constitution of the United States, passed by the thirty-ninth Congress, and known as article fourteenth. If he is not so eligible, direct Brevet Colonel Henry Page, assistant quartermaster United States volunteers, to relieve him immediately of bonds, books, papers, &c., pertaining to his office. Colonel Page will make out and send to these headquarters direct the same reports and returns required from the treasurer, and a monthly statement of receipts and expenditures. He will pay all warrants for salaries which may be or become due, and legitimate expenditures for support of the penitentiary, State asylums, and the support of the provisional State government; but no scrip or warrants for outstanding debts of other kind than those specified will be paid without special authority from these headquarters. He will deposit funds which may accrue in the same manner as though they were those of the United States.

I am, very respectfully, your obedient servant,

E. O. C. ORD,
Brevet Major General Commanding.

Colonel C. H. SMITH,
Commanding Sub-district, State of Arkansas.

Copies of these letters were left by me at Grant's headquarters.
E. O. C. ORD, *Brevet Major General.*

Official copy:
E. D. TOWNSEND, *Assistant Adjutant General.*

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., April 15, 1867.

SIR: I enclose a copy of an order directing that if the present treasurer of the provisional government of the State of Arkansas is not eligible to that office under the sixth section of the act to provide for the more efficient government of the rebel States, Brevet Colonel Page, assistant quartermaster, will relieve him as State treasurer. If, as I learned, the treasurer is not so eligible, and Brevet Colonel Page takes his place, will you please send, or have sent at once, a circular notice of the fact to all sheriffs and other county and State officers having or receiving State funds, and those who may be entitled to salaries, that they may deposit with or draw from Brevet Colonel Page. It is important that the State funds should be all deposited with an officer whose competence under the law of Congress is undoubted. Please acknowledge receipt of this letter, and state what steps may have been taken in compliance therewith, and please send a copy of my order and this letter to the treasurer deemed incompetent, so that he may be notified that he will be held to a strict compliance with the terms of both.

I am, sir, very respectfully, your obedient servant,

E. O. C. ORD,
Brevet Major General Commanding.

Hon. ISAAC MURPHY,
Governor of the State of Arkansas, Little Rock, Arkansas.

Official copy:
E. D. TOWNSEND, *Assistant Adjutant General.*

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[Telegram.]

WASHINGTON, *May* 11, 1867.

Brevet Major General E. O. C. ORD, *Vicksburg, Mississippi:*

There is no legal authority for employing a civilian as judge advocate. A judge advocate of the army will be sent from here to report to you at once. Delay trial until he arrives.

U. S. GRANT, *General.*

Official:

E. D. TOWNSEND, *Assistant Adjutant General.*

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., May 15, 1867.

[From Helena, Arkansas, May 15, 1867—12.15 p. m.—Corrected copy.]

General U. S. GRANT:

Many conscientious Union men ask if they can register as voters when they have furnished a child clothing while in rebel army. Can I get opinion of Attorney General hereon?

E. O. C. ORD, *Brevet Major General.*

Official:

E. D. TOWNSEND, *Assistant Adjutant General.*

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

[Telegram.—Received 5 p. m.]

VICKSBURG, MISSISSIPPI, *June* 7, 1867.

Hon. EDWIN M. STANTON, *Secretary of War:*

I request permission to designate the Dry Tortugas as the place of punishment for horse thieves sentenced by military commission convened under the reconstruction act. The moral effect would be very great.

E. O. C. ORD,
Brigadier and Brevet Major General Commanding.

Official copy:

E. D. TOWNSEND, *Assistant Adjutant General.*

[Telegram.]

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, June 8, 1867.

Brevet Major General E. O. C. ORD,
Commanding Fourth Military District, Vicksburg, Mississippi:

Permission to send a limited number of prisoners, not exceeding fifteen (15), to the Dry Tortugas, for punishment, has been granted you. Report each case so disposed of to this office.

By order of the Secretary of War:

E. D. TOWNSEND, *Assistant Adjutant General.*

Official copy:

E. D. TOWNSEND, *Assistant Adjutant General.*

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OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., June 15, 1867.

[From Vicksburg, Miss., June 15, 1867—7.20 p. m.]

General U. S. GRANT:

Registration progressing satisfactorily in thirty-five (35) counties of Mississippi, and in a few of Arkansas, where it has been detained by successive overflows.

E. O. C. ORD,
Brevet Major General.

Official: E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., June 15, 1867.

GENERAL: I enclose a copy of my final order in the matter of registering doubtful cases. You will perceive that the number of State officials excluded by me is greater than the number excluded by General Schofield. I have, I think, as near as may be covered the intention of Congress. I also separate all whom the boards may deem disqualified from those they may consider qualified, and place before the former the penalties of the only law under which cases of persons disqualified by the law can be decided. I think, with the certainty of trial before them, but few who should not will register. This, I believe, accords with the intention of Congress. The system of colored or white challengers is utterly impracticable in this district; I can hardly find loyal men enough for registrars.

I am, general, with great respect, your obedient servant,

E. O. C. ORD,
Brevet Major General.

General U. S. GRANT,
Commanding Armies of the United States, Washington, D. C.

Official: E. D. TOWNSEND,
Assistant Adjutant General.

Circular of instructions to boards of registration.

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., June 10, 1867.

I. *Precinct books* will not be made in duplicate, but the *county books* will be. Precinct books will be retained by the boards until after the election, as they constitute the *poll-books* of the respective precincts. After the election they will be forwarded to these headquarters, under cover, to the assistant adjutant general. The county books will be made by transcribing from the precinct books, immediately after the registration in the county is closed, and both copies will be sent at once to the assistant adjutant general at these headquarters.

II. No charge is allowed to be made by the board, or any one connected

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therewith, for registering a voter under any circumstances. If such charge has been made in any case, or should it hereafter be made, the facts should be at once reported to these headquarters, that the offender may be brought to trial by military commission.

III. The act of Congress requires that every registered voter shall have taken and *subscribed* the oath which is printed at the top of each page of the precinct registration books. Boards of registration will therefore require every one registered to subscribe his name in the column under the heading "Name;" or, if he cannot write, his name will be entered in the column and his mark or cross made and witnessed by a member of the board.

IV. Boards are informed that the acts of Congress providing for this registration are the sole guide and rule for their action. The board of registration is not empowered to decide in doubtful cases upon the question of qualification or disqualification, but is required to register and grant certificates of registration to all persons who take and subscribe the prescribed oath. In the first instance, the applicant himself must determine on his own responsibility, and at his peril, his ability or disability; and, afterwards, the tribunal authorized to try those who falsely take the oath, and not the registrars, is the arbiter appointed to decide this question. But the registrars are expected promptly to report to these headquarters, for investigation by a military commission, all cases in which it shall appear that any disqualified person has taken and subscribed the oath. When, therefore, any doubt is known to exist, it is the duty of the board to exert every proper means in its power to ascertain the antecedents of the applicants, who also should be particularly interrogated (the questions and answers being noted) respecting the supposed ground of disqualification. If there is cause for believing that he is disqualified by reason of having held office and afterwards engaged in rebellion, he should be warned of the penalty affixed by section 6 of the supplementary act to perjury, and that his case will be reported to the headquarters for investigation, and then be asked whether he ever held any public office. If so, what; where and when, and for what period? Whether in assuming or exercising such office he took an oath to support the Constitution of the United States; and whether he afterwards engaged in rebellion against the United States, or ever voluntarily gave aid and comfort to the enemies thereof. If he insists upon his ability to take the oath prescribed by law, it shall be administered to and subscribed by him, when the board will issue to him a certificate of registration. In every such case there will be entered in the register opposite the name of such person the remark, "Reported for investigation;" and the board will immediately make the report heretofore directed of all the facts to the headquarters, setting forth the ground and evidence of such supposed disqualifications, the names of witnesses, and with as much care as possible the facts, dates, and place in question. In addition to the report made to district headquarters, a list of persons so registered and reported will be submitted by every board to the officer detailed to inspect and supervise the registration in the county.

V. The following officers in this district are regarded as clearly included within the terms executive or judicial officers of any State, viz: governors, secretaries of state, auditors, State treasurers, attorneys general, judges of the supreme court, of the high court of appeals, chancellors, judges of the circuit court, judges or justices of county courts, sheriffs, coroners, and adjutants general and quartermasters general, who have actually exercised the duties and received the salaries of their offices, and mayors authorized to act in a judicial capacity.

VI. To give an opportunity for the registration of all persons who have not been able to present themselves, or have been rejected by the boards on account of previous instructions to reject all doubtful cases, but who may under the above instructions take the oath and register, each board will meet at the most accessible place for all the people in the county for at least two days, of which

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meeting ten days' notice shall have been generally published, and at this meeting the registration of the county will be completed.

VII. Owing to the misapprehension of registrars in Mississippi, relative to the sketch maps required by previous instructions, the following paragraph is promulgated, and it is expected that hereafter there will be no mistake upon this subject:

1. They will prepare a sketch map of each police beat or district, showing clearly and accurately the police beat or district limits, which is to be attached to the precinct registering book; and

2. A sketch map, in triplicate, of the county, with county and police beat; or, in Arkansas, the precinct lines correctly drawn, and a full description of each beat or precinct appended. One copy of this map should be forwarded, upon its completion, promptly to these headquarters, and the other two copies attached to each of the county registering books.

The information necessary to enable the board to prepare these maps, if not already in their possession, can be obtained as they proceed from precinct to precinct in the work of registration.

By command of Brevet Major General Ord:

JOHN TYLER,
First Lieut. 43d U. S. Infantry, A. A. A. General.

Official: JOHN TYLER,
First Lieut. 43d U. S. Infantry, A. A. A. General.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 9, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

WASHINGTON, *June* 23, 1867.

GENERAL: Copy of your final instructions to boards of registration of June 10, 1867, is just received.

I entirely dissent from the views contained in paragraph IV. Your view as to the duty of registrars to register every man who will take the required oath, though they may know the applicant perjures himself, is sustained by the views of the Attorney General. My opinion is, that it is the duty of the board of registration to see so far as it lies in their power, that no unauthorized person is allowed to register. To secure this end registers should be allowed to administer oaths and examine witnesses. The law, however, makes district commanders their own interpreters of their power and duty under it; and, in my opinion, the Attorney General or myself can no more than give our opinion as to the meaning of the law; neither can enforce their views against the judgment of those made responsible for the faithful execution of the law, the district commanders.

Very respectfully, your obedient servant,

U. S. GRANT, *General.*

Brevet Major General E. O. C. ORD,
Commanding Fourth District.

Official: E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

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OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., July 1, 1867.

[From Vicksburg, Miss., July 1, 1867—7.50 p. m.]

GENERAL: The cholera has broken out badly here, and among troops at headquarters. Shall have to move them, probably. Is there any objection to taking headquarters to Mississippi City for a month? Registration progressing in all the counties of this State. Registers appointed and books furnished throughout Arkansas.

E. O. C. ORD,
Brigadier and Brevet Major General Commanding.

General U. S. GRANT.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

General Orders from the Headquarters Fourth Military District.

[General Orders No. 1.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., March 26, 1867.

I. The undersigned, having been appointed by the President to command the fourth military district, consisting of the States of Mississippi and Arkansas, hereby assumes command thereof.

II. Competent civil officers in this district are expected to arrest and punish all offenders against the laws, so as to obviate, as far as possible, necessity for the exercise of military authority under the law of Congress, passed March 2, 1867, creating military districts.

III. Such other orders as may become necessary to carry out the above named act, and an act supplementary thereto, will be duly published.

E. O. C. ORD,
Brevet. Major General and Brigadier General U. S. Army.

Official:

HUGH G. BROWN,
Second Lieutenant 36th Infantry, Aide-de-Camp.

[General Orders No. 5.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., April 15, 1867.

I. No elections will hereafter be held in Mississippi or Arkansas, to fill vacancies existing or occurring in offices of the provisional governments of those States, until a registration of voters is made. Officers of the provisional State governments, who may have been by statute law competent to make appointments to fill vacancies occurring before the passage of the reconstruction act, passed March 2, 1867, where a vacancy may exist or occur which it is important to have filled, are requested to notify the general commanding, and he, who is responsible that the requirements of that law be complied with, will make the neces-

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sary appointment to fill the vacancy, until an election for that purpose can be held under the law.

II. Local civil officers of existing provisional governments of the States of Arkansas and Mississippi will continue in the performance of their duties until the expiration of the terms of their offices, unless otherwise directed in special cases, or until their successors may be appointed or elected in accordance with the act of Congress to provide for the more efficient government of the rebel States, passed March 2, 1867.

III. The most important duty devolving upon freedmen in their new condition, is that of providing by their own labor for the support of themselves and families. They now have a common interest in the general prosperity. This prosperity does not depend so much on how men vote, as upon how well each member of society labors and keeps his contracts. Freedmen are therefore urged not to neglect their business to engage in political discussion, but continue to comply with their contracts and provide for themselves and families, for unless they do so, a famine may come and they will have no food. When the time comes for them to have their names entered in the books of voters, which will be before next September, the general commanding will send them word through proper United States or county officers and send the books to places near by their homes, so that every voter can have his name registered and can afterwards vote without going far from his home. Only those residing in towns will be registered or vote there.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Orders No. 9.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 16, 1867.

The commanding general calls the attention of post commanders to the prevalence of the crime of horse-stealing in certain sections of both States comprising the military district, to an extent materially destructive of the interests of the honest, respectable property-owners.

Such commanders are authorized and directed to exert their utmost efforts to break up the nefarious trade in the sections of country adjoining their respective posts.

When reliable information is received of the committal of a crime of this nature, parties of men (mounted and under command of a commissioned officer when praticable) will be despatched after the criminals, furnished with competent guides and instructed to capture, if possible. Accused parties arrested will be held for trial by military commission, and a report of the facts of the case made at once to these headquarters for further instructions.

Criminals of this class, arrested by the civil authorities, will be immediately turned over to the nearest post commander, who will receive and hold them for trial, reporting facts as directed in the preceding clause.

In all cases no pains will be spared to secure evidence necessary for conviction.

When the prisoners are ordered to be sent to another point for trial, the necessary witnesses must be sent with them; or, if it be impracticable for any

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reason to send the parol testimony, the requisite affidavits in due form must be forwarded with the prisoners.

The civil authorities in the district will not construe the foregoing as in any wise intended to relieve them from the responsibilities of their official positions, but, on the contrary, it should urge them to increased activity, in order that, with the aid thus rendered, an acknowledged evil may be speedily done away with.

All citizens throughout the district, who desire the speedy restoration of good order and the security of property, are urgently invited to co-operate with the military commanders in this matter, by giving full and explicit information—acting as guides—giving lists of persons in their vicinity, against whom there is evidence or general suspicion of connection with bands of horse-thieves, and generally by such action as the particular circumstances of each case may seem to require, to prove their hearty good will in the work.

Military commissions will be ordered from and their proceedings reviewed at these headquarters. In other respects the execution of the foregoing order is devolved upon the sub-district commanders.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

Official:

JNO. TYLER,
First Lieut. 43d U. S. Infantry, A. A. A. General.

[General Orders No. 12.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., June 12, 1867.

I. With a view to secure to labor in this district its hire or just share of the crops, as well as to protect the interests alike of debtors and creditors from sacrifices of property by forced sales in the present impoverished condition of the country, it is ordered that all proceedings for the sale of land under cultivation, or of the crops, stock, farming utensils or other material used in tilling such lands, in pursuance of any execution, writ or order of sale, issued in cases where the debt or other cause of civil action was contracted or accrued prior to the first day of January, 1866, be stayed and suspended until after the thirtieth day of December, 1867. In the mean time all interferences, under color of any such legal process, with the lawful tenant in cultivating or gathering the growing crops, is prohibited; provided that the rights or remedies for a recovery of debts, at any time, of parties to whom the crops have been hypothecated, for money, stock, or other means or material supplied in the cultivation of the land, shall not be hereby prejudiced or postponed.

This order to go into effect from and after the 20th day of June, 1867, in the State of Mississippi, and from and after the 30th day of June, 1867, in the State of Arkansas.

II. It having been reported that corn, so much needed by the poor of this district, is being made into whiskey illicitly, sub-district and post commanders are directed, when they can learn of the existence of any distillery engaged in manufacturing whiskey, to inform themselves whether it pays the legal taxes, and if not, seize it and all the liquor they can find, and, as poverty increases where whiskey abounds, the property seized will be sold for the benefit of the poor of the county in which it is found, and the money will be divided under

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the direction of the registration board for that county, to whom it will be duly turned over.

Sub-district and post commanders are intrusted with the execution of this order.

III. When complaints are made by citizens that they have been persecuted by the civil authorities for opinion's sake, such complaints will be entertained by post commanders in this district, who, after carefully inquiring into all the circumstances, taking testimony under oath of both parties, will forward a report of their investigation, accompanied by the affidavits, to these headquarters.

By command of Brevet Major General Ord:

JOHN TYLER,
First Lieutenant 43d U. S. Infantry, A. A. A. General.

Official:

JOHN TYLER,
First Lieutenant 43d U. S. Infantry, A. A. A. General.

[Circular.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., June 18, 1867.

General Orders No. 12, current series, from these headquarters, relating to the sales of land under cultivation, and the stock and farming utensils used thereon, is not intended to apply to writs or process issued by the United States courts, nor will that order be construed as directing any interference whatever with the proceedings of those courts.

By command of Brevet Major General Ord:

JOHN TYLER,
First Lieutenant 43d U. S. Infantry, A. A. A. General.

Official:

HUGH G. BROWN,
First Lieutenant 36th U. S. Infantry, Aide-de-Camp.

Special Orders from the headquarters fourth military district.

[Special Orders No. 15.—Extract.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., April 15, 1867.

* * * * * *

V. A board of officers is hereby appointed to meet at these headquarters from day to day, for the purpose of dividing the State of Mississippi into election districts, to effect a more complete registration of voters of the State, as provided in the act of Congress "to provide for the more efficient government of the rebel States," and "an act supplementary thereto."

The board will also examine applications for the position of register, correspond with the most prominent and reliable Union men of the State, obtain all reliable data possible, and thereupon recommend applicants to the commanding general for appointment in each of the districts proposed to be established.

As it is important that none but loyal men should be appointed as registers, the board will record in each case its reasons for recommending appointment.

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In case there are no applicants for the appointment of register in any proposed election district, the board will report the fact, and also what course it considers advisable to take to secure the appointment of the proper person for the office.

Detail for the board:

Brevet Major General Alvan C. Gillem, colonel twenty-fourth United States infantry.

Brevet Colonel Joseph R. Smith, surgeon United States army, medical director of the district.

Major O. D. Greene, adjutant general's department.

Captain and Brevet Major Charles A. Wikoff, twenty-fourth United States infantry, recorder.

* * * * * *

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 21.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., April 24, 1867.

In accordance with the provisions of an act of Congress entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will constitute the board of registration for the county of Warren: J. A. Maltby, Alston Mygatt, C. E. Furlong. The appointments will continue in force until revoked by the commanding general.

Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters the following oath of office:

I, ——— ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that to the best of my knowledge and ability I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that

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I will faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———.

The board will conform in its action to the general provisions of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office and commence at once the registration of the legal voters of the county, which, for the purpose, will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ——.

We, the undersigned, registers for ——— county, State of Mississippi, certify that ——— ——— has this day been by us found qualified and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States." Said ——— ——— is registered and will vote in ——— precinct of the said ——— county.

——— ———,
——— ———,
——— ———,
Registers.

The list of voters, as registered, will be kept in duplicate, in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he vote's his number may be checked off or cancelled, to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout the limits thereof, information of the exact date at which it will visit each precinct, the length of stay therein, and the place where its session will be held. Office hours for registration will be from eight o'clock a. m. to twelve o'clock m., and from four o'clock till seven p. m.

The board is authorized to employ one clerk and such other assistants as the commanding general may approve.

Every male citizen of the United States twenty-one years of age or over, of whatever race, color or previous condition, who has been a resident of the State of Mississippi for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress, or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law and exclude from registration every person about whose qualification to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the registers, and be permitted to register at any time prior to the first day of September, at which time the registration of the State must be completed.

The commanding general confidently relies upon the known character of each member of the board herein appointed, to insure a fair and impartial registra-

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tion of the qualified voters of the county, and calls upon all good citizens resident therein, to aid the board in the faithful discharge of its duty.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 25.—Extract.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., April 29, 1867.

I. Brevet Major Joseph G. Crane, chief commissary of subsistence of this district, will proceed, without delay, to New Orleans, Louisiana, on duty connected with the registration of voters in the States of Mississippi and Arkansas. On completion of the special duty assigned to him in New Orleans, Brevet Major Crane will return to these headquarters by the way of the Mississippi river, stopping at such points and for such length of time, as will enable him to recommend to the commanding general proper persons for the appointment of registers for the counties in the State of Mississippi, south of Claiborne, bordering on the river.

* * * * * *

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 26.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss April 30, 1867.

I. In accordance with the provisions of an act of Congress, entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will constitute the board of registration for the counties of Jefferson and Hinds. For the county of Jefferson: James Johnson, W. H. Gray, D. C. Kearns. For the county of Hinds: Edward Pickett, Joseph McCloy, H. T. Fisher.

The appointments will continue in force until revoked by the commanding general.

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Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters the following oath of office:

I, ——— ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have never sought nor accepted, nor attempted to exercise the functions of any office whatever, under any authority or pretended authority in hostility to the United States; that I have never yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that to the best of my knowledge and ability I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———.

The board will conform its action to the general provisions of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district.

The board will select a suitable office, and commence at once the registration of the legal voters of the county, which for the purpose will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections.

The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ——.

We, the undersigned, registers for ——— county, State of Mississippi, certify that ——— ——— has this day been by us found qualified, and is registered as a legal voter in said State, under the first section of the act of Congress, supplementary to "An act to provide for the more efficient government of the rebel States." Said ——— ——— is registered, and will vote in ——— precinct of the said ——— county.

——— ———,
——— ———,
——— ———,
Registers.

The list of voters as registered will be kept in duplicate in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he votes his number may be checked off or cancelled to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will without delay, by printed hand-bills and otherwise, spread throughout the limits thereof, information of the exact date at which it will visit each precinct, the length of stay therein, and the place where its session will be held.

Office hours for registration will be from 8 o'clock a m. till 12 o'clock m., and from 4 o'clock till 7 p. m.

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The board is authorized to employ one clerk, and such other assistants as the commanding general may approve.

Every male citizen of the United States, twenty-one years of age or over, of whatever race, color, or previous condition, who has been a resident of the State of Mississippi for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law, and exclude from registration every person about whose qualifications to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the registers, and be permitted to register at any time prior to the first day of September, at which time the registration of the State must be completed.

* * * * * *

IV. By virtue of the authority vested in the commanding general of the fourth military district by act of Congress, it is hereby directed that all proceedings taken or had under the laws of the State of Mississippi, or account of a deed of trust for money due for the purchase of negroes, with a view to the sale of the estate known as "Bonhamton," situate in the county of Issaquena of the State aforesaid, and belonging to Mrs. Mary Bonham, be and are hereby suspended until such time as the decision of the Attorney General of the United States, on the subject of sales, may be communicated from these headquarters to the sheriff of said county.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 27.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 1, 1867.

In accordance with the provisions of an act of Congress, entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will constitute the boards of registration for the counties of Adams and Madison.

For the county of Adams: H. M. Sellers, T. P. Sears, James Dixon.

For the county of Madison: A. Warner, Thomas Shackelford, Benjamin A. Lee.

The appointments will continue in force until revoked by the commanding general.

Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters, the following oath of office:

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I, ——— ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———.

The board will conform in its action to the general provisions of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office and commence at once the registration of the legal voters of the county, which, for the purpose, will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ——.

We, the undersigned, registers for ——— county, State of Mississippi, certify that ——— ——— has this day been by us found qualified and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States." Said ——— ——— is registered and will vote in ——— precinct of the said ——— county.

——— ———,
——— ———,
——— ———,
Registers.

The list of voters, as registered, will be kept in duplicate, in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he votes, his number may be checked off or cancelled, to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout the limits thereof information of the exact date at which it will visit each precinct—the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 12 o'clock m., and from 4 o'clock till 7 p. m.

The board is authorized to employ one clerk and such other assistants as the commanding general may approve.

Every male citizen of the United States twenty-one years of age or over, of whatever race, color, or previous condition, who has been a resident of the State of Mississippi for one year prior to the date at which he presents himself for

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registration, and who has not been disfranchised by act of Congress or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law and exclude from registration every person about whose qualification to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the registers and be permitted to register at any time prior to the first day of September, at which time the registration of the State must be completed.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

[Special Orders No. 28.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 2, 1867.

In accordance with the provisions of an act of Congress entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will constitute the boards of registration for the counties of Monroe, Attala, and Lowndes:

For the county of Monroe: John Walker, J. B. Woodmansee, Frank J. Tedford.

For the county of Attala: J. M. Thompson, Oliver M. S. Simpson, C. H. Foster.

For the county of Lowndes: Early Hendricks, A. P. Keesecker, jr., Lem. S. Powell.

The appointments will continue in force until revoked by the commanding general.

Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters the following oath of office:

I, ——— ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———.

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The board will conform in its action to the general provisions of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office and commence at once the registration of the legal voters of the county, which, for the purpose, will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ——.

We, the undersigned, registers for ——— county, State of Mississippi, certify that —— ——— has this day been by us found qualified and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States." Said —— ——— is registered and will vote in ——— precinct of the said ——— county.

——— ———,
——— ———,
——— ———,
Registers.

The list of voters so registered will be kept in duplicate, in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he votes his number may be checked off or cancelled, to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout the limits thereof, information of the exact date at which it will visit each precinct, the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 12 o'clock m., and from 4 o'clock till 7 p. m.

The board is authorized to employ one clerk and such other assistants as the commanding general may approve.

Every male citizen of the United States, twenty-one years of age or over, of whatever race, color, or previous condition, who has been a resident of the State of Mississippi for one year prior to the date of which he presents himself for registration, and who has not been disfranchised by act of Congress or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law and exclude from registration every person, about whose qualification to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the registers and be permitted to register at any time prior to the 1st day of September, at which time the registration of the State must be completed.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

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[Special Orders No. 29.—Extract.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 3, 1867.

I. In accordance with the provisions of an act of Congress, entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will constitute the boards of registration for Clark and Yazoo counties:

For Clark county: Cornelius S. Jackson, C. W. Onthank, E. W. Evans.

For Yazoo county: A. G. Gale, L. M. Loewenberg, J. W. Bourne.

The appointments will continue in force until revoked by the commanding general.

Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters, the following oath of office:

I, ——— ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———.

The board will conform in its action to the general provisions of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office, and commence at once the registration of the legal voters of the county, which, for the purpose, will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ——.

We, the undersigned, registers for ——— county, State of Mississippi, certify that ——— ——— has this day been by us found qualified, and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States." Said ——— ——— is registered and will vote in ——— precinct of the said ——— county.

———, ———,
———, ———,
———, ———,
Registers.

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The list of voters, as registered, will be kept in duplicate, in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he votes, his number may be checked off or cancelled, to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout the limits thereof, information of the exact date at which it will visit each precinct, the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 12 o'clock m., and 4 o'clock till 7 p. m.

The board is authorized to supply one clerk and such other assistants as the commanding general may approve.

Every male citizen of the United States twenty-one years of age or over, of whatever race, color or previous condition, who has been a resident of the State of Mississippi for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law and exclude from registration every person, about whose qualification to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision, by the registers, and be permitted to register at any time prior to the first day of September, at which time the registration of the State must be completed.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

[Special Orders No. 30.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 4, 1867.

I. In accordance with the provisions of an act of Congress entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Arkansas are hereby appointed registers under the act, and will constitute the board of registration for the county of Pulaski:

W. S. Oliver, W. A. Cantrell, A. H. Ryan.

The appointments will continue in force until revoked by the commanding general.

Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general, at these headquarters, the following oath of office:

I, ——— ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or consti-

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tution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———.

The board will conform in its action to the general provisions of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office, and commence at once the registration of the legal voters of the county, which for the purpose will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ——.

We, the undersigned registers for ——— county, State of Arkansas, certify that ——— has this day been by us found qualified and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States." Said ——— is registered, and will vote in ——— precinct of the said ——— county.

———,
———,
———,
Registers.

The list of voters, as registered, will be kept in duplicate, in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he votes his number may be checked off or cancelled to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout the limits thereof information of the exact date at which it will visit each precinct, the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 12 o'clock m., and from 4 o'clock till 7 p. m.

The board is authorized to employ one clerk, and such other assistants as the commanding general may approve.

Every male citizen of the United States twenty-one years of age or over, of whatever race, color, or previous condition, who has been a resident of the State of Arkansas for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress, or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law, and exclude from registration every person about whose

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qualification to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the registers, and be permitted to register at any time prior to the first day of September, at which time the registration of the State must be completed.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

[Special Orders No. 31.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 4, 1867.

In accordance with the provisions of an act of Congress entitled "An act supplementary to an act, entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will constitute the boards of registration for the counties of Harrison and Washington:

For Harrison county: J. B. Weeks, Benjamin H. Orr, E. L. Slaughter.

For Washington county: W. H. Bolton, F. W. Logue, John Fawn.

The appointments will continue in force until revoked by the commanding general.

Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general, at these headquarters, the following oath of office:

I, —— ——, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———.

The board will conform in its action to the general provisions of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office and commence at once the registration of the legal voters of the county, which, for the purpose, will be divided into the number of precincts most suitable for complete registration, and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

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No. ——.

We, the undersigned, registers for ——— county, State of Mississippi, certify that —— —— has this day been by us found qualified and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States." Said ———— is registered, and will vote in —— precinct of the said —— county.

——— ———,
——— ———,
——— ———,
Registers.

The list of voters, as registered, will be kept in duplicate, in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he votes, his number may be checked off or cancelled, to prevent more than one vote being given on the same certificate.

The board will determine, subject to the approval of the commanding general, the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout the limits thereof information of the exact date at which it will visit each precinct, the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 12 o'clock m., and from 4 o'clock till 7 p. m.

The board is authorized to employ one clerk, and such other assistants as the commanding general may approve.

Every male citizen of the United States twenty-one years of age or over, of whatever race, color, or previous condition, who has been a resident of the State of Mississippi for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress, or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law, and exclude from registration every person about whose qualification to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the registers, and be permitted to register at any time prior to the first day of September, at which time the registration of the State must be completed.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

———

[Special Orders No. 33.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 8, 1867.

I. In accordance with the provisions of an act of Congress, entitled "An act supplementary to an act, entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of

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Mississippi are hereby appointed registers under the act, and will constitute the boards of registration for the counties of Rankin and Hancock:

For Rankin county: John Lee, J. Proctor, B. D. M. Mason.

For Hancock county: J. F. H. Claiborne, Dallas G. Duell, Levi K. Brown.

The appointments will continue in force until revoked by the commanding general.

Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters the following oath of office:

I, ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———.

The board will conform in its action to the general provision of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office and commence at once the registration of the legal voters of the county, which, for the purpose, will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ———

We, the undersigned, registers for ——— county, State of Mississippi, certify that ——— has this day been by us qualified and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States." Said ——— is registered and will vote in ——— precinct of the said ——— county.

———, ———,
———, ———,
———, ———,
Registers.

The list of voters, as registered, will be kept in duplicate, in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he votes his number may be checked off or cancelled, to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout the limits thereof information of the exact date at which it will

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visit each precinct—the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 2 o'clock m., and from 4 o'clock till 7 p. m.

The board is authorized to employ one clerk and such other assistants as the commanding general may approve.

Every male citizen of the United States twenty-one years of age or over, of whatever race, color or previous condition, who has been a resident of the State of Mississippi, for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress, or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law and exclude from registration every person about whose qualifications to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the registers and be permitted to register at any time prior to the first day of September, at which time the registration of the State must be completed.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

[Special Orders No. 34.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 9, 1867.

I. In accordance with the provisions of an act of Congress entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will constitute the boards of registration for the counties of Scott, Copiah, Jackson, Claiborne, and Oktibbeha:

For Scott county: J. Tarbell, Jno. G. Owen, A. C. Fiske.

For Copiah county: J. R. Groome, Jno. Hamilton, George Mackenzie.

For Jackson county: Caleb Lindsey, G. H. Norton, William McKenna.

For Claiborne county: Samuel Milligan, C. G. Fisher, D. M. Dick.

For Oktibbeha county: Frank A. Ware, W. C. Gillespie, M. H. Tuttle.

The appointments will continue in force until revoked by the commanding general. Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters the following oath of office:

I, ——— ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will

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support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———.

The board will conform, in its action, to the general provisions of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office, and commence at once the registration of the legal voters of the county, which, for the purpose, will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ——.

We, the undersigned, registers for ——— county, State of Mississippi, certify that ——— ——— has this day been by us found qualified, and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States." Said ——— ——— is registered, and will vote in ——— precinct of the said ——— county.

——— ———,
——— ———,
——— ———,
Registers.

The list of voters, as registered, will be kept in duplicate in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he votes his number may be checked off or cancelled, to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout the limits thereof information of the exact date at which it will visit each precinct, the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 12 o'clock m., and from 4 o'clock till 7 p. m. The board is authorized to employ one clerk and such other assistants as the commanding general may approve.

Every male citizen of the United States twenty-one years of age or over, of whatever race, color, or previous condition, who has been a resident of the State of Mississippi for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress, or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law, and exclude from registration every person about whose qualification to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, will

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be duly informed of such decision by the registers, and be permitted to register at any time prior to the first day of September, at which time the registration of the State must be completed.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

[Special Orders No. 35.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 10, 1867.

I. In accordance with the provisions of an act of Congress entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will constitute the boards of registration for the counties of Yazoo, Jasper, Noxubee, and Simpson:

For Yazoo county: Charles W. Clark, in place of A. G. Gale, whose appointment is cancelled.

For Jasper county: Francis E. Adams, Elisha Dansby, Frederick T. Lee.

For Noxubee county: J. T. Smith, Joshua Stevens, George F. Holman.

For Simpson county: John C. McLaurin, E. G. Peyton, Phil. Hammond.

The appointments will continue in force until revoked by the commanding general.

Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters the following oath of office:

I, —— ——, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

———— ————.

The board will conform in its action to the general provisions of the first section of the act hereinbefore mentioned, and such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office and commence at once the registration of the legal voters of the county, which, for the purpose, will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

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No. ——.

We, the undersigned, registers for ——— county, State of Mississippi, certify that ——— ———, has this day been by us found qualified and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States." Said ——— ———, is registered and will vote in ——— precinct of the said ——— county.

———— ————,
———— ————,
———— ————,
Registers.

The list of voters, as registered, will be kept in duplicate, in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he votes his number may be checked off or cancelled, to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout the limits thereof information of the exact date at which it will visit each precinct—the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 12 o'clock m., and from 4 o'clock till 7 p. m.

The board is authorized to employ one clerk and such other assistants as the commanding general may approve.

Every male citizen of the United States twenty-one years of age or over, of whatever race, color, or previous condition, who has been a resident of the State of Mississippi for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfrancised by law, registers will give the strictest interpretation to the law and exclude from registration every person about whose qualification to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the registers and be permitted to register at any time prior to the first day of September, at which time the registration of the State must be completed.

* * * * * *

IV. A military commission is hereby appointed to meet at the post of Vicksburg, Mississippi, to-morrow, the 11th instant, or as soon thereafter as practicable, for the trial of William Fears and such other citizen prisoners as may be properly brought before it.

Detail for the commission:

1. Brevet Colonel N. A. M. Dudley, major twenty-fourth United States infantry.

2. Captain Charles C. Hyatt, twenty-fourth United States infantry.

3. Captain Roman H. Gray, twenty-fourth United States infantry.

4. Brevet Captain John Williams, first lieutentant twenty-fourth United States infantry.

5. Second Lieutenant D. B. Taylor, twenty-fourth United States infantry.

First Lieutenant Ira Quinby, twenty-fourth United States infantry, judge advocate.

The commissission will sit without regard to hours.

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The commission is authorized to employ a stenographer at the rate of ten dollars ($10) per diem.

* * * * * *

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

[Special Orders No. 36.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 11, 1867.

I. In accordance with the provisions of an act of Congress entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will constitute the boards of registration for the counties of Kemper, Chickasaw, and Itawamba:

For Kemper county: W. S. Gamble, A. Key, John McRae.

For Chickasaw county: R. A. Murdock, L. H. Naron, J. W. Blessing.

For Itawamba county: J. V. Thomas, Henry Flood, B. Schempert.

The appointments will continue in force until revoked by the commanding general.

Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters the following oath of office:

I, ——— ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———.

The board will conform in its action to the general provisions of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office and commence at once the registration of the legal voters of the county, which, for the purpose, will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thusestablished, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

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No. ——.

We, the undersigned, registers for ——— county, State of Mississippi, certify that ——— ——— has this day been by us found qualified, and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States." Said ——— ——— is registered and will vote in ——— precinct of the said ——— county.

——— ———,
——— ———,
——— ———,
Registers.

The list of voters, as registered, will be kept in duplicate, in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he votes his number may be checked off or cancelled, to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout the limits thereof information of the exact date at which it will visit each precinct—the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 12 o'clock m., and from 4 o'clock till 7 p. m.

The board is authorized to employ one clerk and such other assistants as the commanding general may approve.

Every male citizen of the United States twenty-one years of age or over, of whatever race, color, or previous condition, who has been a resident of the State of Mississippi for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law, and exclude from registration every person about whose qualification to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the registers, and be permitted to register at any time prior to the 1st day of September, at which time the registration of the State must be completed.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

[Special Orders No. 37.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 14, 1867.

I. In accordance with the provisions of an act of Congress entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will contitute the boards of registration for the counties of Marshall, Tunica. Wayne, Tishomingo, Yazoo, and Jefferson:

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For Marshall county: D. C. Calkins, Willian Wooten, Charles H. Townsend.
For Tunica county: Frank A. Owen, Andrew Gallfy, W. W. McFarland.
For Wayne county: A. D. Carlisle, W. L. Jarvis, Thomas Caldwell.
For Tishomingo county: William Walker, A. W. Patterson, Joshua Webster.
For Yazoo couny: S. Galinger, in place of Charles W. Clark, whose appointment is cancelled.
For Jefferson county: James M. Ellis, in place of James Johnson, whose appointment is cancelled.
The appointments will continue in force until revoked by the commanding general.
Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters the following oath of office:

I, ——— ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, contenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———.

The board will conform in its action to the general provisions of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office and commence at once the registration of the legal voters of the county, which, for the purpose, will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ——.

We, the undersigned, registers for ——— county, State of Mississippi, certify that ——— ——— has this day been by us found qualified and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States." Said ——— ——— is registered and will vote in ——— precinct of the said ——— county.

———, ———,
———, ———,
———, ———,
Registers.

The list of voters, as registered, will be kept in duplicate, in books provided for that purpose. Opposite each voter's name will be entered the number of his

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certificate, in order that when he votes his number may be checked off or cancelled, to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout the limits thereof information of the exact date at which it will visit each precinct—the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 12 o'clock m., and from 4 o'clock till 7 p. m.

The board is authorized to employ one clerk and such other assistants as the commanding general may approve.

Every male citizen of the United twenty-one years of age or over, of whatever race, color, or previous condition, who has been a resident of the State of Mississippi for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law, and exclude from registration every person about whose qualification to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the register, and be permitted to register at any time prior to the 1st day of September, at which time the registration of the State must be completed.

II. A military commission is hereby appointed to meet at the post of Little Rock, Arkansas, the 23d instant, or as soon thereafter as practicable, for the trial of William Rolf, and such other citizen prisoners as may be properly brought before it.

DETAIL FOR THE COMMISSION.

1. Brevet Major General Richard Arnold, captain fifth United States artillery.
2. Captain S. S. Culbertson, twenty-eighth United States infantry.
3. Captain L. C. Forsyth, assistant quartermaster United States army.
4. First Lieutenant John E. Bennett, twenty-eighth United States infantry.
5. Second Lieutenant A. M. E. Gordon, fifth United States artillery.

First Lieutenant George F. Towle, twenty-eighth United States infantry, judge advocate.

The commission will sit without regard to hours.

The commission is authorized to employ a stenographer at the rate of ten dollars ($10) per diem.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

Official:

JOHN TYLER,
First Lieut. 43d U. S. Infantry, A. A. A. General.

[Special Orders No. 38.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 15, 1867.

I. In accordance with the provisions of an act of Congress entitled "An act supplementary to an act entitled 'An act to provide for the more efficient gov-

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ernment of the rebel States,' " the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will constitute the boards of registration for the counties of Bolivar, Tippah, Lauderdale, and Washington:

For Bolivar county: B. G. Leiper, J. Railsbach, J. R. Webster.

For Tippah county: S. B. Palmer, S. J. Biggs, J. M. Jones.

For Lauderdale county: William Cathay, Alpin Sloan, D A. Smalley.

For Washington county: William Brown, in place of John Fawn, whose appointment is cancelled.

The appointments will continue in force until revoked by the commanding general.

Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters the following oath of office:

I, ——— ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———.

The board will conform in its action to the general provisions of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office and commence at once the registration of the legal voters of the county, which, for the purpose, will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ——.

We, the undersigned, registers for ——— ———county, State of Mississippi, certify that ——— ——— has this day been by us found qualified and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States." Said ——— ——— is registered and will vote in——— precinct of the said ——— county.

——— ———,
——— ———,
——— ———,
Registers.

The list of voters, as registered, will be kept in duplicate, in books provided for that purpose. Opposite each voter's name will be entered the number of

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his certificate, in order that when he votes his number may be checked off or cancelled, to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the country, and will, without delay, by printed handbills and otherwise, spread throughout the limits thereof information of the exact date at which it will visit each precinct—the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 12 o'clock m., and from 4 o'clock till 7 p. m.

The board is authorized to employ one clerk and such other assistants as the commanding general may approve

Every male citizen of the United States, twenty-one years of age or over, of whatever race, color, or previous condition, who has been a resident of the State of Mississippi for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law, and exclude from registration every person about whose qualification to vote there may be a doubt. Any person so excluded who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the registers and be permitted to register at any time prior to 1st day of September, at which time the registration of the State must be completed.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

Official:

JNO TYLER,
First Lieut. 43d U. S. Infantry, A. A. A. General.

[Special Orders No. 39.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 16, 1867.

I. In accordance with the provision of an act of Congress, entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Arkansas are hereby appointed registers under the act, and will constitute the board of registers for the county of Phillips: David Benton, Jasper Imfrey, F. L. Burke.

The appointment will continue in force until revoked by the commanding general.

Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters the following oath of office:

I, ——— ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever under any authority,

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or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———.

The board will conform in its action to the general provisions of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office and commence at once the registration of the legal voters of the county, which for the purpose will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ——.

We, the undersigned, registers for ——— county, State of Arkansas, certify that ——— ——— has this day been by us found qualified and is registered as a legal voter in said State under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States." Said ——— ——— is registered and will vote in ——— precinct of the said ——— county.

——— ———,
——— ———,
——— ———,
Registers.

The list of voters, as registered, will be kept in duplicate in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he votes his number may be checked off or cancelled to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout the limits thereof information of the exact date at which it will visit each precinct, the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 12 o'clock m., and from 4 o'clock till 7 p. m.

The board is authorized to employ one clerk and such other assistants as the commanding general may approve.

Every male citizen of the United Statest, wenty-one years of age or over, of whatever race, color, or previous condition, who has been a resident of the State of Arkansas for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest in-

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terpretation to the law, and exclude from registration every person about whose qualification to vote there may be a doubt. Any person so excluded who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the registers, and be permitted to register at any time prior to the 1st day of September, at which time the registration of the State must be completed.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

Official:

JNO. TYLER,
First Lieut. 43d U. S. Infantry, A. A. A. General.

[Special Orders No. 40.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 17, 1867.

I. In accordance with the provisions of an act of Congress, entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will constitute the boards of registration for the counties of Issaquena and Wilkinson:

For Issaquena county: George L. Lockwood, D. McMillan, Lou. P. Drake.

For Wilkinson county: T. D. Johnson, Morgan Wiley, A. Parker.

The appointments will continue in force until revoked by the commanding general.

Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters the following oath of office:

I, ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

———.

The board will conform in its action to the general provisions of the 1st section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office and commence at once the registration of the legal voters of the county, which, for the purpose, will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register.

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Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ——.

We, the undersigned, registers for ——— county, State of Mississippi, certify that —— —— has this day been by us found qualified, and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States." Said —— —— is registered and will vote in —— precinct of the said —— county.

——— ———,
——— ———,
——— ———,
Registers.

The list of voters, as registered, will be kept in duplicate in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he votes his number may be checked off or cancelled to prevent more that one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed hand-bills and otherwise, spread throughout the limits thereof information of the exact date at which it will visit each precinct, the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 12 m., and from 4 o'clock till 7 p. m.

The board is authorized to employ one clerk and such other assistants as the commanding general may approve.

Every male citizen of the United States, twenty-one years of age or over, of whatever race, color, or previous condition, who has been a resident of the State of Mississippi for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law and exclude from registration every person about whose qualification to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the registers, and be permitted to register at any time prior to the first day of September, at which time the registration of the State must be completed.

2. First Lieutenant George F. Towle, 28th United States infantry, is hereby relieved from duty as judge advocate of the military commission convened by Special Orders No. 37, paragraph III, current series, from these headquarters, and detailed as a member of said military commission.

3. First Lieutenant John E. Bennett, 28th United States infantry, is hereby relieved from duty as a member of the military commission convened by Special Orders No. 37, paragraph III, current series, from these headquarters, and detailed as the judge advocate thereof.

* * * * * *

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

Official:

JNO. TYLER,
First Lieut. 43d U. S. Infantry, A. A. A. General.

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[Special Orders No. 41.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 18, 1867.

I. In accordance with the provisions of an act of Congress, entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will constitute the boards of registration for the counties of Pike, De Soto, Marion, Amite, and Yazoo:

For Pike county: L. I. Quin, F. I. Parrott, Charles Fallbush.

For De Soto county: A. F. Cole, A. T. Riggs, J. Rogers.

For Marion county: W. H. B. Lane, David E. Morrison, Halsey B. Green.

For Amite county: J. W. Hartley, Geo. Peaker, R. V. Powers.

For Yazoo county: J. C. Doane, in place of S. Galinger, whose appointment is cancelled; O. A. Corbin, in place of L. M. Loewenbarg, whose appointment is cancelled. The composition of the board for Yazoo county will be as follows: J. C. Doane, O. A. Corbin, J. W. Bourne.

The appointments will continue in force until revoked by the commanding general.

Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters the following oath of office:

I, ——— ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———.

The board will conform in its action to the general provisions of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may, from time to time, receive from the commander of the fourth military district. The board will select a suitable office and commence at once the registration of the legal voters of the county, which, for the purpose, will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ——.

We, the undersigned registers for ——— county, State of Mississippi, certify that ——— ——— has this day been by us found qualified and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel

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States." Said ——— ——— is registered and will vote in ——— precinct of the said ——— county.

——— ———,
——— ———,
——— ———,
Registers.

The list of voters, as registered, will be kept in duplicate, in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that, when he votes, his number may be checked off or cancalled, to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout the limits thereof information of the exact date at which it will visit each precinct, the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 12 o'clock m., and from 4 o'clock till 7 p. m.

The board is authorized to employ one clerk and such other assistants as the commanding general may approve.

Every male citizen of the United States, twenty-one years of age or over, of whatever race, color, or previous condition, who has been a resident of the State of Mississippi for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law, and exclude from registration every person about whose qualification to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the registers, and be permitted to register at any time prior to the first day of September, at which time the registration of the State must be completed.

II. Brevet Brigadier General William Hays, major fifth United States artillery, having reported at these headquarters, in compliance with instructions from the War Department, is hereby assigned to duty as inspector of registration in the following named counties of the State of Mississippi, viz:

Hinds, Rankin, Madison, Leake, Scott, Newton, Neshoba, Kemper, and Lauderdale.

General Hays will proceed, with as little delay as practicable, to the counties named, consult with the respective boards of registers, and give them such suggestions and special instructions as in his opinion may be required to facilitate their duties. He will also make a special report to the commanding general upon the merits and qualifications of each of the registers appointed for those counties, and should he find that in any case an unfit appointment has been made, will forward the name of an applicant for the position—preferably a resident of the county—who can take the oath of office required, and who is in every way qualified for the duties.

General Hays is authorized to give orders and instructions relative to registering in the name of the commanding general. He will be obeyed and respected accordingly.

III. Brevet Major General A. V. Kautz, lieutenant colonel thirty-fourth United States infantry, is hereby assigned to duty as inspector of registration in the following named counties of the State of Mississippi, viz: Holmes, Attala,

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Carroll, Choctaw, Yalobusha, Calhoun, Lafayette, Pontotoc, Marshall, and Tippah.

General Kautz will proceed with as little delay as practicable to the counties named, consult with the respective boards of registers, and give them such suggestions and special instructions as in his opinion may be required to facilitate their duties. He will also make a special report to the commanding general upon the merits and qualifications of each register appointed for those counties, and should he find that in any case an unfit appointment has been made, will forward the name of an applicant for the position—preferably a resident of the county—who can take the oath of office required, and who is in every way qualified for the duties.

General Kautz is authorized to give orders and instructions relative to registering in the name of the commanding general. He will be obeyed and respected accordingly.

IV. The quartermaster's department will furnish transportation to F. Gougeon, a government detective, hence to Chicago, Illinois, and return from Chicago for himself and two citizen prisoners.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

Official:

JOHN TYLER,
First Lieut. 43d U. S. Infantry, A. A. A. General.

[Special Orders No. 43.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 21, 1867.

I. In accordance with the provisions of an act of Congress entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will constitute the boards of registration for the counties of Panola, Carroll, Lawrence, Leake and Lee:

For Panola county: Johnson Sullivan, W. W. Howe, Albert R. Howe.

For Carroll county: John P. Marshall, J. C. Harris, Thomas L. White.

For Lawrence county: Robert Montgomery, A. H. Hall, S. Glascott.

For Leake county: Henry W. Warren, Walter C. Brewer, David Larr.

For Lee county: George Tankersly, B. L. Trice, W. F. Barber.

The appointments will continue in force until revoked by the commanding general.

Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters the following oath of office:

I, ——— ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further

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swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———.

The board will conform in its action to the general provisions of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office and commence at once the registration of the legal voters of the county, which, for the purpose, will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ———.

We, the undersigned, registers for ——— ——— county, State of Mississippi, certify that ——— ——— has this day been by us found qualified and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States" Said ——— ——— is registered and will vote in ——— precinct of the said ——— county.

———— ————,
———— ————,
———— ————,
Registers.

The list of voters, as registered, will be kept in duplicate, in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he votes his number may be checked off or cancelled, to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout the limits thereof information of the exact date at which it will visit each precinct, the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 12 o'clock m., and from 4 o'clock till 7 p. m.

The board is authorized to employ one clerk and such other assistants as the commanding general may approve.

Every male citizen of the United States, twenty-one years of age or over, of whatever race, color or previous condition, who has been a resident of the State of Mississippi for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law and exclude from registration every person about whose qualification to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, will be duly in-

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formed of such decision by the registers, and be permitted to register at any time prior to the 1st day of September, at which time the registration of the State must be completed.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General

Official:

JOHN TYLER,
First Lieut. 43d U. S. Infantry, A. A. A. General.

[Special Orders No. 44.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 22, 1867.

I. In accordance with the provisions of an act of Congress, entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will constitute the boards of registration for the counties of Amite, Calhoun, Lafayette, and Adams:

For Amite county, E. G. Baker, in place of R. V. Powers, whose appointment is cancelled. The members constituting the board for Amite county are announced as follows: J. W. Hartley, George Peaker, E. G. Baker.

For Calhoun county, E. Byers, A. H. McArthur, Arthur McArthur.

For Lafayette county, Isaac A. Duncan, Alexander Hull, A. P. Huckins.

The members constituting the board for Adams county are announced as follows: H. M. Sellers, T. P. Spears, James Dickson, whose name was previously published through clerical error as James Dixon.

The appointments will continue in force until revoked by the commanding general.

Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters the following oath of office:

I, ——— ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

The board will conform in its action to the general provisions of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office and commence at once the registration of the legal voters of the county, which, for the purpose, will be

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divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ——.

We, the undersigned, registers for ——— county, State of Mississippi, certify that ——— ——— has this day been by us found qualified, and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States." Said ——— ——— is registered and will vote in —— precinct of the said ——— county.

——— ———,
——— ———,
——— ———,
Registers.

The list of voters, as registered, will be kept in duplicate, in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he votes his number may be checked off or cancelled, to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout the limits thereof information of the exact date at which it will visit each precinct, the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 12 o'clock m., and from 4 o'clock till 7 p. m.

The board is authorized to employ one clerk and such other assistants as the commanding general may approve.

Every male citizen of the United States, twenty-one years of age or over, of whatever race, color, or previous condition, who has been a resident of the State of Mississippi for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress, or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law and exclude from registration every person about whose qualification to vote there may be a doubt. Any person so excluded who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the registers, and be permitted to register at any time prior to the first day of September, at which time the registration of the State must be completed.

II. The telegraphic instructions of the 22d instant to Brevet Major General A. V. Kautz, lieutenant colonel thirty-fourth United States infantry, directing him to report in person to these headquarters before proceeding upon the tour of inspection directed in Special Orders No. 42, paragraph III, current series, from these headquarters, are hereby confirmed.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

Official:

JNO. TYLER,
First Lieut. 43d U. S. Infantry, A. A. A. General.

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[Special Orders No. 46.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 24, 1867.

In accordance with the provisions of an act of Congress, entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will constitute the boards of registration for the counties of Choctaw, Covington, Newton, and Greene:

For Choctaw county: W. C. Bridges, F. W. Hammond, James R. Newell.
For Covington county: W. P. Guynes, Carlos Chapman, Charles Stoppell.
For Newton county: W. M. Kirkpatrick, Carolinus Boyd, J. E. G. Smith.
For Greene county: Melville Purvis, John T. Rankin, G. V. Wood.

The appointments will continue in force until revoked by the commanding general.

Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters, the following oath of office:

I, ——— ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———.

The board will conform in its action to the general provisions of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office and commence at once the registration of the legal voters of the county, which, for the purpose, will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ——.

We, the undersigned, registers for ——— county, State of Mississippi, certify that ——— ——— has this day been by us found qualified and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel

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States." Said ——— ——— is registered and will vote in ——— precinct of the said ——— county.

——— ———,
——— ———,
——— ———,
Registers.

The list of voters, as registered, will be kept in duplicate, in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he votes his number may be checked off or cancelled, to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout the limits thereof information of the exact date at which it will visit each precinct, the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 12 o'clock m., and from 4 o'clock till 7 p. m.

The board is authorized to employ one clerk and such other assistants as the commanding general may approve.

Every male citizen of the United States, twenty-one years of age or over, of whatever race, color, or previous condition, who has been a resident of the State of Mississippi for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation of the law, and exclude from registration every person about whose qualifications to vote there may be a doubt. Any person, so excluded, who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the registers and be permitted to register at any time prior to the first day of September, at which time the registration of the State must be completed.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

Official:

JNO. TYLER,
First Lieut. 43d U. S. Infantry, A. A. A. General.

[Special Orders No. 47.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 25, 1867.

I. In accordance with the provisions of an act of Congress entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will constitute the board of registration for the counties of Yazoo, Franklin and Perry:

For Yazoo county: Frank P. Hilliard, in place of G. C. Doane, whose appointment is cancelled.

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The members constituting the board for Yazoo county are announced as follows: Frank P. Hillard, O. A. Corbin, J. W. Bourne.

For Franklin county: Leroy L. Key, A. Alderson, C. N. Waterbury.

For Perry county: John McCallam, Reuben Hartfield, Austin Edwards.

The appointments will continue in force until revoked by the commanding general.

Each member of the board will, prior to his entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters the following oath of office:

I, ——— ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———.

The board will conform in its action to the general provisions of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office and commence at once the registration of the legal voters of the county, which, for the purpose, will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ——.

We, the undersigned, registers for ——— ——— county, State of Mississippi, certify that ——— ——— has this day been by us found qualified and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States." Said ——— ——— is registered and will vote in ——— precinct of the said ——— county.

——— ———,
——— ———,
——— ———,
Registers.

The list of voters, as registered, will be kept in duplicate, in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he votes, his number may be checked off or cancelled, to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout

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the limits thereof information of the exact date at which it will visit each precinct—the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a m. till 12 o'clock m., and from 4 o'clock till 7 p. m.

The board is authorized to employ one clerk and such other assistants as the commanding general may approve.

Every male citizen of the United States twenty-one years of age or over, of whatever race, color, or previous condition, who has been a resident of the State of Mississippi for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law, and exclude from registration every person about whose qualification to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the registers, and be permitted to register at any time prior to the first day of September, at which time the registration of the State must be completed.

II. A board of officers is hereby appointed to meet at the headquarters subdistrict of Arkansas, from day to day, for the purpose of examining applications for the position of register in Arkansas, under the act of Congress "to provide for a more efficient government of the rebel States" and "an act supplementary thereto." The board will correspond with the most prominent and reliable Union men in the State—obtain all reliable data possible, and thereupon recommend applicants to the commanding general for appointment in each county.

As it is important that none but loyal men should be appointed as registers, the board will record in each case its reasons for recommending appointment. In case there are no applicants for the appointment of register in any county, the board will report the fact, and also what course it is considered advisable to take to secure the appointment of proper persons for the office.

Detail for the board: Brevet Brigadier General C. H. Smith, United States army, colonel twenty-eighth United States infantry, Brevet Colonel Henry Page, captain and assistant quartermaster United States volunteers, First Lieutenant Samuel M. Mills, adjutant twenty-eighth United States infantry, recorder.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

Official:

JNO. TYLER,
First Lieut. 43d U. S. Infantry, A. A. A. General.

[Special Orders No. 48.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 27, 1867.

I. First Lieutenant George Haller, twenty-fourth United States infantry, is hereby detailed as a member of the general court-martial convened at the post of Vicksburg, Mississippi, by Special Orders No. 39, paragraph II, current series, from these headquarters.

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II. Brevet Lieutenant Colonel James Biddle, captain twenty-fourth United States infantry, is hereby relieved from duty with the general court-martial, convened at the post of Vicksburg, Mississippi, by Special Orders No. 39, paragraph II, current series, from these headquarters, and will proceed, without delay, to Natchez, Mississippi, and resume command of that post.

III. Brevet Colonel Henry Goodfellow, major and judge advocate United States army, is hereby detailed as judge advocate of the military commission now in session at the post of Vicksburg, Mississippi, by virtue of Special Orders No. 35, paragraph IV, current series, from these headquarters, and will relieve First Lieutenant Ira Quinby, twenty-fourth United States infantry, heretofore detailed on that duty.

IV. In accordance with the provisions of an act of Congress entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will constitute the boards of registration for the counties of Kemper, Claiborne, and Neshoba:

For Kemper county: A. J. Lea, in place of John McRae, whose appointment is cancelled.

The members constituting the board for Kemper county are announced as follows: W. S. Gamble, A. Key, A. J. Lea.

For Claiborne county: D. S. Spratt, in place of Samuel Milligan, whose appointment is cancelled.

The members constituting the board for Claiborne county are announced as follows: D. S. Spratt, C. G. Fisher, D. M. Dick.

For Neshoba county: Harvy Rice, John A. Voight, J. E. Joslyn.

The appointments will continue in force until revoked by the commanding general.

Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters the following oath of office:

I, ——— ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostilities thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———.

The board will conform in its action to the general provisions of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office and commence at once the registration of the legal voters of the county, which, for the purpose, will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to regis-

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ter. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ——.

We, the undersigned, registers for ——— —— county, State of Mississippi, certify that ——— ——— has this day been by us found qualified and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States." Said ——— ——— is registered and will vote in ——— precinct of the said ——— county.

——— ———,
——— ———,
——— ———,
Registers.

The list of voters, as registered, will be kept in duplicate, in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he votes his number may be checked off or cancelled, to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout the limits thereof information of the exact date at which it will visit each precinct, the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 12 m., and from 4 o'clock till 7 p. m.

The board is authorized to employ one clerk and such other assistants as the commanding general may approve.

Every male citizen of the United States, twenty-one years of age or over, of whatever race, color, or previous condition, who has been a resident of the State of Mississippi for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law, and exclude from registration every person about whose qualification to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the registers and be permitted to register at any time prior so the first day of September, at which time the registration of the State must be completed.

By command of Brevet Major General Ord:

O D. GREENE,
Assistant Adjutant General.

Official:

JNO. TYLER,
First Lieut. 43d U. S. Infantry, A. A. A. General.

[Special Orders No. 49.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 28, 1867.

I. In accordance with the provisions of an act of Congress, entitled "An act supplementary to an act entitled 'An act to provide for the more efficient gov-

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ernment of the rebel States,'" the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will constitute the board of registration for the county of Yalobusha: M. K. Mister, Nathaniel Howard, William R. Tullidge.

The appointments will continue in force until revoked by the commanding general.

Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters the following oath of office:

I, ——— ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———,

The board will conform, in its action, to the general provisions of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office and commence at once the registration of the legal voters of the county, which, for the purpose, will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ——.

We, the undersigned, registers for ——— county, State of Mississippi, certify that ——— ——— has this day been by us found qualified, and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States." Said ——— ——— is registered and will vote in ——— precinct of the said ——— county.

——— ———,
——— ———,
——— ———,
Registers.

The list of voters, as registered, will be kept in duplicate, in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he votes his number may be checked off or cancelled, to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout

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the limits thereof information of the exact date at which it will visit each precinct, the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 12 o'clock m., and from 4 o'clock till 7 p m.

The board is authorized to employ one clerk and such other assistants as the commanding general may approve.

Every male citizen of the United States, twenty-one years of age or over, of whatever race, color, or previous condition, who has been a resident of the State of Mississippi for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law, and exclude from registration every person about whose qualification to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the registers and be permitted to register at any time prior to the first day of September, at which time the registration of the State must be completed.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

Official:

JNO. TYLER,
First Lieut. 43d U. S. Infantry, A. A. A. General.

[Special Orders No. 50.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 29, 1867.

I. In accordance with the provisions of an act of Congress entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will constitute the boards of registration for the counties of Noxubee, Itawamba, Lawrence, Winston, and Coahoma:

For Noxubee county: A. B. Stevens, in place of Joshua Stevens, declined.

The members constituting the board for Noxubee county are announced as follows: J. T. Smith, A. B. Stevens, George F. Holman.

For Itawamba county: Samuel J. Thomas, in place of J. V. Thomas, declined.

The members constituting the board for Itawamba county are announced as follows: Samuel J. Thomas, Henry Flood, B. Schempert.

For Lawrence county: E. M. Durham, in place of Robert Montgomery, declined.

The members constituting the board for Lawrence county are announced as follows: E. M. Durham, A. H. Hall, S. Glascott.

For Winston county: Reuben P. Barmore, J. M. Dickerson, John W. Young.

For Coahoma county: George Brodie, Frank S. Belcher, C. H. Chapin.

The appointments will continue in force until revoked by the commanding general.

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Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters the following oath of office:

I, ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———.

The board will conform in its action to the general provisions of the first section of the act hereinbefore mentioned, and to such special instructions and orders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office and commence at once the registration of the legal voters of the county, which, for the purpose, will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ——.

We the undersigned, registers for ——— county, State of Mississippi, certify that ——— has this day been by us found qualified and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States." Said ——— is registered and will vote in ——— precinct of the said ——— county.

——— ———,
——— ———,
——— ———,

Registers.

The list of voters, as registered, will be kept in duplicate, in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he votes his number may be checked off or cancelled, to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout the limits thereof information of the exact date at which it will visit each precinct, the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 12 o'clock m., and from 4 o'clock till 7 p. m.

The board is authorized to employ one clerk and such other assistants as the commanding general may approve.

Every male citizen of the United States, twenty-one years of age or over, of whatever race, color, or previous condition, who has been a resident of the State of Mississippi for one year prior to the date at which he presents himself for

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registration, and who has not been dtsfranchised by act of Congress or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law, and exclude from registration every person about whose qualification to vote there may be a doubt. Any person so excluded who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the registers, and be permitted to register at any time prior to the 1st day of September, at which time the registration of the State must be completed.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

Official:

JOHN TYLER,
First Lieut. 43d U. S. Infantry, A. A. A. General.

[Special Orders No. 51.]

HEADQUARTERS FOURTH MILITARY DISTRICT,
(MISSISSIPPI AND ARKANSAS,)
Vicksburg, Miss., May 30, 1867.

I. In accordance with the provisions of an act of Congress entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the following named citizens of the State of Mississippi are hereby appointed registers under the act, and will constitute the board of registration for the county of Davis: Robert C. Hansbrough, F. P. Bishop, Robert H. McGaughey.

The appointments will continue in force until revoked by the commanding general.

Each member of the board will, prior to entering upon his duties, subscribe and file in the office of the assistant adjutant general at these headquarters the following oath of office:

I, ——— ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

——— ———.

The board will conform in its action to the general provisions of the 1st section of the act hereinbefore mentioned, and to such special instructions and or-

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ders as it may from time to time receive from the commander of the fourth military district. The board will select a suitable office and commence at once the registration of the legal voters of the county, which, for the purpose, will be divided into the number of precincts most suitable for complete registration and the convenience of voters in the subsequent elections. The board will visit each of the precincts thus established, giving at least five days' notice thereof, and will remain in each sufficiently long to enable all qualified voters to register. Each registered voter will be furnished with a numbered certificate of registry of the following form, signed by each member of the board:

No. ——.

We, the undersigned, registers for ——— ——— county, State of Mississippi, certify that ——— ——— has this day been by us found qualified and is registered as a legal voter in said State, under the first section of the act of Congress supplementary to "An act to provide for the more efficient government of the rebel States." Said ——— ——— is registered and will vote in ——— precinct of the said ——— county.

——— ———,
——— ———,
——— ———,
Registers.

The list of voters, as registered, will be kept in duplicate, in books provided for that purpose. Opposite each voter's name will be entered the number of his certificate, in order that when he votes his number may be checked off or cancelled, to prevent more than one vote being given on the same certificate.

The board will determine (subject to the approval of the commanding general) the order of precedence for registration of the various precincts of the county, and will, without delay, by printed handbills and otherwise, spread throughout the limits thereof information of the exact date at which it will visit each precinct, the length of stay therein, and the place where its session will be held. Office hours for registration will be from 8 o'clock a. m. till 12 o'clock m., and from 4 o'clock till 7 p. m.

The board is authorized to employ one clerk and such other assistants as the commanding general may approve.

Every male citizen of the United States, twenty-one years of age or over, of whatever race, color, or previous condition, who has been a resident of the State of Mississippi for one year prior to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter.

Pending the decision of the Attorney General of the United States upon the question as to who are disfranchised by law, registers will give the strictest interpretation to the law and exclude from registration every person about whose qualification to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, will be duly informed of such decision by the registers and be permitted to register at any time prior to the first day of September, at which time the registration of the State must be completed.

By command of Brevet Major General Ord:

O. D. GREENE,
Assistant Adjutant General.

Official:

JOHN TYLER,
First Lieut. 43d U. S. Infantry, A. A. A. General.

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FIFTH DISTRICT.

UNITED STATES MILITARY TELEGRAPH, WAR DEPARTMENT.

[Received in cipher from New Orleans, La., March 8, 1867—10 p. m.]

GENERAL: It is important that the district commander under the late act of Congress be made as soon as possible for this district, as the mayor of this city and the governor of the State are exciting the public mind over questions of authority pending his appointment and presence here.

P. H. SHERIDAN,
Major General.

General U. S. GRANT.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, Louisiana, March 29, 1867.

GENERAL: The supplementary bill has passed Congress, and we will now have to go to work to reorganize under its provisions.

General Orders No. 1 confers the power on you to take all necessary steps for this reorganization, and the letter of instructions, dated the 23d instant, places a considerable force at your disposal, which can be used to assist you if necessary.

You will, therefore, at once, make the necessary arrangements, &c.

As soon as the law is officially received, commence the reorganization under the provisions of the act of Congress of the 2d March, 1867, and the act supplementary to it.

I am, general, very respectfully, your obedient servant,

P. H. SHERIDAN,
Major General U. S. Army.

Brevet Major General CHARLES GRIFFIN,
Commanding District of Texas, Galveston, Texas.

Respectfully furnished for the information of General U. S. Grant, commanding armies of the United States.

P. H. SHERIDAN,
Major General U. S. Army.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

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OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., April 1, 1867.

[From New Orleans, La., April 1, 1867—1.15 p. m.]

Gen. U. S. GRANT, *Commanding Armies of the United States:*

In consequence of diversity of opinion I have the honor to request an authoritative decision, showing who are prohibited from voting under the military bills covering all cases.

P. H. SHERIDAN,
Major General U. S. Army.

Official:

GEO. K. LEET, *A. A. G.*

HEADQUARTERS ARMY UNITED STATES,
April 1, 1867.

Respectfully forwarded to the Secretary of War.

U. S. GRANT, *General.*

APRIL 2, 1867.

Submitted to the President in cabinet, and instructions deferred until the Attorney General completes his opinion upon the same point heretofore presented by General Schofield, and on reference by the President, now under consideration of the Attorney General.

EDWIN M. STANTON,
Secretary of War.

ADJUTANT GENERAL'S OFFICE, *July* 6, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

WAR DEPARTMENT,
Adjutant General's Office, April 2, 1867.

GENERAL: The Secretary of War acknowledges the receipt of copy of a telegram from Major General Sheridan, dated April 1, in relation to prohibition from voting, and directs me to inform you that it was submitted to the President in cabinet, and instructions deferred until the Attorney General completes his opinion upon the same point, heretofore presented by General Schofield, and on reference by the President, now under consideration of the Attorney General.

I have the honor to be, general, very respectfully, your obedient servant,

E. D. TOWNSEND,
Assistant Adjutant General.

General U. S. GRANT,
Commanding Armies of the United States.

Official copy:

E. D. TOWNSEND,
Assistant Adjutant General.

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[Cipher telegram.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, Louisiana, April 2, 1867.

GENERAL: I transmit by mail to-day a communication from General Griffin, in which he asks for the removal of Governor Throckmorton, of Texas. I feel like General Griffin on this subject—that he ought to be removed, and I fear I will obliged to remove the governor of Louisiana; he is impeding me as much as he can.

I will commence the registration in Louisiana as soon as the supplemental bill reaches me officially.

I feel myself fully equal to this new task, and hope to get through with it creditably to the military.

I send General Griffin's application and the telegram, asking the benefit of your judgment.

It is my intention to make but few removals.

P. H. SHERIDAN,
Major General United States Army.

General U. S. GRANT,
Commanding Armies of the U. S., Washington, D. C.

HEADQUARTERS DISTRICT OF TEXAS,
Galveston, Texas, March 28, 1867.

MAJOR: I beg leave to call the attention of the general commanding the district to the necessity of superseding some of the chief civil officers of this State. I deem this step absolutely necessary in order that the military and supplemental bills may be fairly and impartially carried into effect.

I cannot find an officer holding position under the State laws whose antecedents will justify me in reposing trust in him in assisting in the registration.

Again and again have I called the notice of the governor to outrages and murders perpetrated on loyal men, white and black, and I have yet to ascertain a single instance in which the offender has been punished. I advise his immediate removal. He is not the only person disqualified by the military bill from holding office, but also the lieutenant governor, G. W. Jones; and, in fact, all the officers of the State government are disloyal.

They will submit to the laws because they cannot do otherwise, although they think them unjust and oppressive; but the laws ought to be executed in *spirit*, then the reorganization will be achieved in accordance with the national intention.

The appointment of suitable registrars will be a difficult and embarrassing duty, requiring judgment and great prudence; but upon these selections hinges the whole question. My duties must be more arduous than those of any other district commander, resulting from the extent of territory, the want of rapid communication, the irreclaimable character of many of the leading men who, I believe, will endeavor to throw obstacles in my way in order that some advantage may be secured to the disloyal element.

I am anxious that the registration in this State shall be properly and satisfactorily made, and it is for this reason that I am compelled to recommend the removal of the chief executive, for I feel confident that I cannot receive a hearty co-operation from him in the performance of my duties.

I do not advise other removals at this time, although I feel certain that others will have to be made, but they can follow the registration.

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If I may be allowed to suggest a man for the position of provisional governor, I give the name of Judge C. Caldwell, an old resident of the State, at present residing in New Orleans. I also give the name of Judge Baldwin, an excellent man.

I am, major, very respectfully, your obedient servant,

CHARLES GRIFFIN,
Brevet Major General U. S. A. Commanding.

Major GEORGE A. FORSYTH, *Secretary of Civil Affairs,*
Headquarters Fifth Military District, New Orleans, La.

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., April 2, 1867.

Official:

GEORGE A. FORSYTH,
Major U. S. A., Secretary for Civil Affairs.

Official copy:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

[By telegraph, in cipher.]

WASHINGTON, *April* 3, 1867.

Major General P. H. SHERIDAN, *New Orleans, La.:*

I would advise that no removal of governors of States be made at present. It is a question now under consideration whether the power exists under the law to remove except by special act of Congress, or by trial under the 6th section of the act promulgated in order 33.

U. S. GRANT, *General.*

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., April 5, 1867.

[Received in cipher from New Orleans, La., April 5, 1867—5.45 p. m.]

GENERAL: There is not one word of truth in the rumored Indian massacre in Texas, near Camp Verdi. These reports are now manufactured wholesale to effect the removal of troops from the interior to the frontier, it being known that it is contemplated sending a small detachment of troops to nearly every

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parish in Louisiana and in as many counties in Texas as I can, so there may be a just registration and a fair vote.

P. H. SHERIDAN,
Major General.

General U. S. GRANT.

Official: GEORGE K. LEET,
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 6, 1867.

Official: E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at War Department, April 8, 186 7.

UNITED STATES MILITARY TELEGRAPH, WAR DEPARTMENT.

[Received in cipher from New Orleans, La., April 6, 1867—3 p. m.]

GENERAL: I am in readiness to commence the registration in this city. Will in a few days commence throughout the whole State of Louisiana. A reply to my telegram asking an authoritative decision on what classes are disfranchised is very important.

P. H. SHERIDAN,
Major General.

General U. S. GRANT, *Commanding Armies United States.*

Official: E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

[By telegraph.]

WASHINGTON, *April* 7, 1867.

Major General P. H. SHERIDAN, *New Orleans, Louisiana:*

Your question, as to who are ineligible for registration, was submitted to the Attorney General. No answer has been received. Go on giving your own interpretation to the law until answer is given.

U. S. GRANT, *General.*

Official: E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

UNITED STATES MILITARY TELEGRAPH, WAR DEPARTMENT.

[Received in cipher from New Orleans, La., April 12, 1867—5. 40 p. m.]

GENERAL: I have already issued the order for the registration of New Orleans, and by next Monday or Tuesday will issue the order for registration of the State of Louisiana, and will then go over to help General Griffin.

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I am very much embarrassed for want of funds. Can some be sent me for Louisiana and Texas?

P. H. SHERIDAN,
Major General.

General GRANT, *Commanding United States Army.*

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, Louisiana, April 12, 1867.

SIR: I have the honor to request that I may be furnished with a transcript of the list of registered enemies kept in this city under the administration of Generals Butler and Banks, all the records of their commands having been sent to Washington in accordance with General Orders No. 60, Adjutant General's office, of 1865.

I have the honor to be, very respectfully, your obedient servant,

P. H. SHERIDAN,
Major General United States Army.

Hon. E. M. STANTON,
Secretary of War, Washington, D. C.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 6, 1857.

Official copy:

E. D. TOWNSEND,
Assistant Adjutant General.

[Indorsement.]

APRIL 25, 1867.

ADJUTANT GENERAL: Secretary of War orders these books to be sent to General Sheridan by express immediately.

E. SCHRIVER,
Inspector General.

Sent by express April 25, 1867.

E. D. TOWNSEND,
Assistant Adjutant General

[By telegraph.]

WASHINGTON, *April* 13, 1867.

Major General P. H. SHERIDAN, *New Orleans, La.:*

Direct paymaster to make requisition for one month's supply of funds, in pursuance of accompanying order—Circular No. 56, Paymaster General's office, April 11, 1867.

U. S. GRANT, *General.*

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

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WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, April 10, 1867.

Ordered, That the appropriation of five hundred thousand dollars by the joint resolution of Congress, approved March 30, 1867, be disbursed under the direction of the Paymaster General, and that he assign an officer of his bureau, in each of the five military districts, to make such disbursement under regulations to be prescribed by the Paymaster General, and approved by the Secretary of War.

By order of the Secretary of War:

E. D. TOWNSEND,
Assistant Adjutant General.

[Circular No. 56.]

PAYMASTER GENERAL'S OFFICE,
Washington, April 11, 1867.

The Secretary of War directs that in carrying out the provisions of the act entitled "An act for the more efficient government of the rebel States," passed March 2, 1867, and the act supplementary thereto, passed March 23, 1867, (General Orders Nos. 10 and 33 of 1867,) and the joint resolution of Congress approved March 30, 1867, the disbursements for the expenses of carrying into full effect the act entitled "An act to provide for the more efficient government of the rebel States," shall be made by and through officers of this bureau designated for that purpose.

To this end the following detail and assignment is hereby ordered:

First district.—Headquarters, Richmond, Virginia; Paymaster T. H. Stanton.

Second district.—Headquarters, Columbia, South Carolina; Paymaster J. W. Nicholls.

Third district.—Headquarters, Atlanta, Georgia; Paymaster E. D. Judd.

Fourth district.—Headquarters, Vicksburg, Mississippi; Paymaster P. P. G. Hall.

Fifth district.—Headquarters, New Orleans, Louisiana; Paymaster Nicholas Vedder.

Each officer designated will report, in person, without delay, to the general commanding the district to which he is herein assigned. He will at once, by conference with the general commanding the district, and subject to his approval, make a detailed estimate for funds to be used in this special service, to embrace the period of one month next ensuing, and thereafter make in like manner further timely monthly estimates for such sums as may be required for the execution of same acts of Congress. The estimate will be made in detailed tabular form, stating the commencement and expiration of the period embraced in the estimate, and setting forth specifically, by the headings, the purposes for which funds will be required, the amount under each head, and the total amount, signed by the paymaster, and countersigned as approved by the commanding general. The estimates will be transmitted to this office for the confirmation of the Secretary of War, which had, the necessary requisitions will issue, and remittances be made through the treasury, as in ordinary cases.

No disbursement of this fund will be made except upon the written order of the general commanding the district. The vouchers in all cases must be in duplicate, according to the practice of this department; one to be retained by the paymaster, the other to be transmitted to this office for the settlement of his accounts.

Each voucher must show on its face the distinct purpose for which paid, and

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must be receipted by the person entitled to the payment. Returns of all payments should be made monthly to the Paymaster General, accompanied with abstract and vouchers. The abstracts, by the headings, as in the case of the estimates, must show the nature, purpose, and amount of each voucher, so that the footings of the columns will show the total paid for the several purposes. The abstracts must be certified by the paymaster in usual form, and countersigned by the Commanding General as examined and approved by him.

It is presumed that the duties herein required will necessarily occupy but a small portion of the paymaster's time; they will therefore not be relieved from the regular duty of paying troops in their respective districts.

In keeping and making up their accounts and returns, the several paymasters assigned as aforesaid are directed to keep the two classes of disbursements entirely distinct. Separate and independent abstracts and accounts current for each class must be transmitted in separate packages, the envelopes marked so as to indicate the nature of their contents.

B. W. BRICE,
Paymaster General.

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, Louisiana, April 16, 1867.

GENERAL: I have the honor to transmit herewith a duplicate of telegram sent you this day, and the memorandums therein referred to; also extracts from the "Revised Statutes of Louisiana," treating of oaths.

I am, general, very respectfully, your obedient servant,

P. H. SHERIDAN,
Major General, U. S. Army.

General U. S. GRANT,
Commanding Armies of the United States, Washington, D. C.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

U. S. MILITARY TELEGRAPH, WAR DEPARTMENT.

[From New Orleans, La., April 16—11 a. m., 1867.—Received 1.40 p. m., in cipher.]

General U. S. GRANT:

The registration was commenced in this city yesterday, and is progressing without trouble or ill feeling, colored and whites registering at the same offices. I will send by to day's mail a memorandum showing what classes are disqualified under the military bill in this State.

P. H. SHERIDAN,
Major General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

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At a meeting of the board of registrars for the five districts of Orleans parish, the following was unanimously agreed to:

Memoranda of disqualifications.

1. Every person who has acted as United States senator or representative.
2. All who have acted as electors of President and Vice-President.
3. Every person who held any position in the army or navy of the United States.
4. Every person who held any position under the United States, in which they were required to take an oath before they entered upon the duties of the office—such as officers in the custom-house, post office, mint, judges, and all officers of the United States courts, United States marshals and deputies.
5. All who have been governors of the State, State senators and representatives, secretary of state, treasurer, and all officers provided for in the constitution of the State made in 1845 and 1852, including judges of courts, justices of peace, clerks of courts and deputies, sheriffs and deputies, constables and deputies, tax collectors, assessors, coroners, police jurors, auctioneers, pilots, harbor masters, recorders of conveyance and mortgages, parish recorders, notaries public, and all commissioned officers in the State militia.

Every person who has acted as mayor of the city, treasurer, comptroller, recorder, alderman, assistant alderman, assessors, tax collectors, administrators of the charity hospital, members of the board of health, commissioners of elections and their clerk, chief of police, lieutenants of police, and all who have served on the police force, wardens and under-wardens of the parish prison and workhouse, board of school directors, city surveyors and deputies, street commissioners and deputies, city attorney and assistant attorney, superintendent of public schools, inspectors of tobacco, flour, beef, and pork, and weights and measures, managers of the asylums for the deaf and dumb and blind, and sextons of cemeteries.

All who in 1862 and 1864 registered themselves as aliens, or who obtained protection papers from the representatives of foreign powers.

Any person who at any time held any of the above offices, and who afterwards engaged in rebellion against the United States, or gave aid and comfort to the enemies thereof, are disqualified from voting.

Questions to be answered by persons proposing to register.

1. Have you been United States senator, representative, or elector of President or Vice-President, at any time before January 26, 1861?
2. Have you held any office under the United States government of any kind whatsoever before January 26, 1861?
3. Have you held any office under the government of this State of any kind whatsoever to which you were elected or appointed prior to January 26, 1861?
4. Have you held any office under the city government of any kind whatsoever to which you were elected or appointed prior to January 26, 1861?
5. Did you in 1862 or 1864 register yourself as an alien, or did you obtain protection papers from the representatives of any foreign power?

In case any of the preceding questions are answered "Yes," or should you know they ought to be so answered, it will be proper to ask the following:

6. Were you in the confederate service, military, naval, or civil, or did you give aid and comfort to those engaged in hostility to the United States?

If answered "Yes," or if you know it to be so, they must not be registered.

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OATH.

Constitutional provision.

ARTICLE 90. Members of the general assembly and all officers before they enter upon the duties of their offices shall take the following oath or affirmation:

[Extract.]

I (A B) do solemnly swear (or affirm) that I will support the Constitution of the United States and of this State, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States and of this State.

* * * * * *

SECTION 1. The oath required by article ninetieth of the Constitution shall be taken by all officers of the State before entering on the duties of their office; it may be administered by the governor of the State, any judge or justice of the peace, clerk, or deputy clerk, and shall be subscribed by the party taking it, and be certified in his commission by the person administering it.

* * * * * *

SEC. 2. The governor and judges, and all other civil and military officers elected or appointed under the authority of this State, shall, before they act in their respective offices, take and subscribe the oath or affirmation required by article ninety of the constitution.

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., April 19, 1867.

GENERAL: On the 27th day of March last I removed from office Judge E. Abell, of the criminal court of New Orleans, Andrew S. Herron, attorney general of the State of Louisiana, and John T. Monroe, mayor of the city of New Orleans. These removals were made under the powers granted me in what is usually termed the "military bill," passed March 2, 1867, by the Congress of the United States.

I did not deem it necessary to give any reason for the removal of these men, especially after the investigations made by the military board on the massacre of July 30, 1866, and the report of the congressional committee on the same massacre; but as some inquiry has been made for the cause of removal, I would respectfully state as follows:

The court over which Judge Abell presided is the only criminal court in the city of New Orleans, and for a period of at least nine months previous to the riot of July 30 he had been educating a large portion of the community to the perpetration of this outrage, by almost promising no prosecution in his court against the offenders, in case such an event occurred. The records of his court will show that he fulfilled his promise, as not one of the guilty has been prosecuted.

In reference to Andrew S. Herron, attorney general of the State of Louisiana, I considered it his duty to indict these men before this criminal court. This he failed to do, but went so far as to attempt to impose on the good sense of the whole nation by indicting the victims of the riot instead of the rioters; in other words, making the innocent guilty and the guilty innocent. He was therefore, in my belief, an able coadjutor with Judge Abell in bringing on the massacre of July 30.

Mayor Monroe controlled the element engaged in this riot, and when backed by an attorney general who would not prosecute the guilty, and a judge who

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advised the grand jury to find the innocent guilty and let the murderers go free, felt secure in engaging his police force in the riot and massacre.

With these three men exercising a large influence over the worst elements of the population of this city, giving to those elements an immunity for riot and bloodshed, the General-in-chief will see how insecurely I felt in letting them occupy their respective positions in the troubles which might occur in registration and voting in the reorganization of this State.

I am, general, very respectfully, your obedient servant,

P. H. SHERIDAN,
Major General U. S. Army.

General U. S. GRANT,
Commanding Armies of the United States, Washington, D. C.

HEADQUARTERS ARMY UNITED STATES,
July 8, 1867.

Official copy:

GEO. K. LEET,
Assistant Adjutant General.

UNITED STATES MILITARY TELEGRAPH, WAR DEPARTMENT.

[From New Orleans, April 19, 2 p. m., 1867.—Received 6.45 p. m., in cipher.]

General U. S. GRANT:

The registration in the city is progressing well. There is some dissatisfaction among a few sore-heads because we cannot interpret the law to suit them. No one will be refused registration of his name in my command who is legally entitled to it.

Opportunity is given for the correction of any errors that may occur.

P. H. SHERIDAN,
Major General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., April 21, 1867.

GENERAL: I issued my order for the registration of the State of Louisiana yesterday, giving until the 30th of June to accomplish the work. Should I not be able to accomplish the work an extension of the time will be given.

I anticipate no trouble in the work; the people generally will register. I have in no way sought, by consultations with governor, legislature, or public assemblies, to mould the public mind by such political machinery to an acceptance or non-acceptance of the law; but I have given them clearly to understand that the law would be enforced and the reorganization accomplished, and I believe my course is not unacceptable to the majority of the people in the State.

By pursuing this course I am freed, as I ought to be, from any just charge of giving partisan support. My only desire is to faithfully carry out the law as a military order.

Some of the public prints in the city are loud in denouncing the boards of registrars here, but it is unjust. There have been, from the developments already

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made, the most unparalleled frauds in the voting here in this city, and I am now not surprised at the conduct of some of the best citizens here in never voting, or that bad men should have ruled in the city government.

In the appointment of registrars for the State, I have in nearly every case selected two citizens, residents of the parish, and one ex-army officer from the city of New Orleans. This gives me a check on each board by having a good and tried man as chairman of each. Then in addition I have the boards supervised by intelligent army officers. I deem this caution necessary for many good reasons.

The Attorney General should not hamper me too much; no one can conceive or estimate, at so great a distance, the precautions necessary to be taken in the present condition of society here.

I am, general, very respectfully, your obedient servant,

P. H SHERIDAN,
Major General U. S. Army.

General U. S. GRANT,
Commanding Armies of the U. S., Washington, D. C.

HEADQUARTERS ARMY UNITED STATES,
July 8, 1867.

Official copy:

GEO. K. LEET,
Assistant Adjutant General.

[Special Orders No. 15.—Extract.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., April 10, 1867.

* * * * * *

II. In obedience to the directions contained in the first section of the law of Congress, entitled "An act supplemental to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the registration of the legal voters, according to that law, in the parish of Orleans will be commenced on the fifteenth instant, and must be completed by the fifteenth of May.

* * * * * *

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 2, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 23.—Extract.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., April 20, 1867.

I. In obedience to the directions contained in the first section of the law of Congress, entitled "An act supplemental to an act entitled 'An act to provide

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for the more efficient government of the rebel States,'" the registration of the legal voters, according to that law, in the State of Louisiana will be commenced on the first of May, and must be completed by the thirtieth of June.

* * * * * *

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 2, 1867.

Official: E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 39.—Extract.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., May 9, 1867.

I. There appearing to be a necessity for more time for complete registration in the parish of Orleans than is given in Special Orders No. 15, from these headquarters, that time is hereby extended until the 31st of May.

* * * * * *

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 2, 1867.

Official: E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 53.—Extract.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., May 27, 1867.

* * * * * *

II. The time for the completion of the registration of voters in the parish of Orleans, Louisiana, provided in Special Orders No. 15, and extended in Special Orders No. 39, current series from these headquarters, is hereby further extended to the 20th of June next, and the hours for registration will hereafter be from 9 a. m. till 2 p. m.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official: GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 2, 1867.

Official: E. D. TOWNSEND,
Assistant Adjutant General.

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UNITED STATES MILITARY TELEGRAPH, WAR DEPARTMENT.

[From New Orleans, La., April 24, 1867—1.30 p. m.—Received 8.30 p. m., in cipher.]

General U. S. GRANT:

The registration is going on quietly and with fairness. The general condition of affairs in this State is good.

P. H. SHERIDAN,
Major General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., May 4, 1867.

[From New Orleans, May 4, 1867—4.40 p. m.]

GENERAL: The registration in the city and in the State is progressing very well. The proportion of colored voters registered in the city is much in excess of the white, for the reason that the colored people are excited and crowd the registration offices, the white people preferring to wait until the colored people finish their registration, when they will register. Politicians are trying to make it appear that the few white voters registered is on account of the stringency in registration, but this is not the case. The white people are waiting until the colored get through. It must not be disguised, however, that quite a large number of whites will not register because they do not like the military bill.

P. H. SHERIDAN,
Major General U. S. Army.

General U. S. GRANT, *Commanding Armies U. S.*

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

WAR DEPARTMENT,
Washington City, May 7, 1867.

GENERAL: In General Sheridan's order relating to the registering of voters in the parish of New Orleans, he directs that the registry must be completed by the fifteenth of this month. The President is of opinion that the time allowed by General Sheridan's order, as above mentioned, is too short for a full and fair registry, and that so much of said order as limits the registry to the fifteenth of May should be rescinded.

You will please communicate this to Major General Sheridan.

Yours truly,

EDWIN M. STANTON,
Secretary of War.

General GRANT, *Commanding, &c., &c.*

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 6, 1867.

Official copy:

E. D. TOWNSEND,
Assistant Adjutant General.

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HEADQUARTERS ARMIES OF THE UNITED STATES,
Washington, May 9, 1867.

[In cipher.]

Major General P. H. SHERIDAN, *New Orleans, La.:*

The President thinks the 15th of May too short a time for the registration of voters in the parish of Orleans, and thinks so much of the order as limits registration to that date should be rescinded.

U. S. GRANT, *General.*

Official copy:

GEO. K. LEET,
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE,
Washington, July 6, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

NEW ORLEANS, LA., *May* 10, 1867.

[By telegraph, 6 p. m]

General U. S. GRANT:

The bitterness which has existed in this city for the last two weeks about the street car question has subsided. I advised the companies to make no distinction, as there was no law, State or municipal, to support them, and that ultimately the colored people would be permitted to ride in any car. This view they cheerfully adopted, and the excitement died out at once. There is no trouble now.

P. H. SHERIDAN,
Major General U. S. Army.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

UNITED STATES MILITARY TELEGRAPH, WAR DEPARTMENT.

[From New Orleans, La., May 11, 1867.—Received 3 p. m., in cipher.]

General GRANT:

The reports of the progress of registration from the different parishes in this State are now coming in, and indicate that the machinery is in good working order. I have to contend with all kinds of attempted fraud in this city to-day. I have to dismiss the clerk of the 5th district court for issuing false certificates of naturalization, and the same thing has been done in one other, and in perhaps all of the courts, but I have been too sharp for them. I will go to Texas with Porter and Babcock to-morrow. Will be back in about six days.

P. H. SHERIDAN,
Major General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

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UNITED STATES MILITARY TELEGRAPH, WAR DEPARTMENT.

[From New Orleans, La., May 18, 1867—10.30 a. m.—Received 1.30 p. m., in cipher.]

General U. S. GRANT:

I have the honor to acknowledge the receipt of your cipher telegram of the ninth. I had already extended the time in the city until the 31st of May.

P. H. SHERIDAN,
Major General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

UNITED STATES MILITARY TELEGRAPH, WAR DEPARTMENT.

[From New Orleans, La., May 18, 1867.—Received 5 p. m., in cipher.]

General U. S. GRANT:

I have the honor to report my return from Galveston. General Griffin issued his orders for registration while I was there, and the machinery is now in full operation in Texas. There has been some excitement in New Orleans during my absence, but without much political significance. It was a strike on part of colored laborers, which produced a stampede and consequent exaggeration. All is now quiet and will continue so. The night before I arrived at Galveston, there was some little trouble at a political meeting, but of little significance or importance. Generals Porter and Babcock have gone to the Rio Grande.

P. H. SHERIDAN,
Major General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

UNITED STATES MILITARY TELEGRAPH, WAR DEPARTMENT.

[From New Orleans, May 20, 1867.—Received 7.20 p. m., in cipher.]

General U. S. GRANT:

On the fourth I telegraphed you, stating the reason why there was such a preponderance of colored voters registered in this city was because the whites staid away from the registration offices until the colored got through. This proves to be true, and the tables are now turned, and the ratio is about one hundred whites to thirty colored, daily. The white is increasing on the colored very fast.

P. H. SHERIDAN,
Major General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

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OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., May 22, 1867.

[From New Orleans, May 22, 1867.]

General U. S. GRANT, *Commanding Armies United States:*

There is a persistent effort made to construe the order of General Griffin, in circular number thirteen (13,) as forcing colored jurors on the courts in Texas. General Griffin tells me he had no such intention, but it was to force the courts to put on loyal citizens, of which there is in each county sufficient number to give security to Union people, and to relieve himself from the pressure of applications of this class of the country for redress in the most grievous wrongs.

P. H. SHERIDAN,
Major General U. S. Army.

HEADQUARTERS ARMIES UNITED STATES,
May 23, 1867.

Respectfully forwarded to the Secretary of War for his information.

U. S. GRANT, *General.*

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Circular No. 13.]

HEADQUARTERS DISTRICT OF TEXAS,
Galveston, Texas, April 27, 1867.

The attention of the commanding general of the district having been directed to the fact that persons disqualified by law are drawn to serve as jurors in the civil courts of the State of Texas, it is hereby ordered that, hereafter, no person shall be held eligible to serve, or to be sworn in, as a juryman, until he shall have taken the following oath:

I, ———, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

To prevent the exclusion of loyal citizens from the jury box, on account of race or color, and for the guidance of officials authorized to impanel juries in the State of Texas, the following section of the civil rights bill is published:

SEC. 2. *And be it further enacted,* That any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject, or cause to be subjected, any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties,

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on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine not exceeding one thousand dollars, or imprisoned not exceeding one year, or both, in the discretion of the court.

By command of Brevet Major General Griffin:

A. H. M. TAYLOR,
Second Lieut. 17th U. S. Infantry, A. A. A. General.

Official:

Assistant Adjutant General.

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, Louisiana, May 25, 1867.

MY DEAR GENERAL: Please find enclosed a copy of a despatch sent to General Grant on your circular.

If any of the judges or other officers of the courts in Texas attempt to embarrass you by selecting colored men who are unfitted to act as jurors, report their names and the circumstances of the case to me for their removal.

I am, general, very respectfully,

P. H. SHERIDAN,
Major General U. S. Army.

Brevet Major General CHARLES GRIFFIN,
Commanding District of Texas, Galveston, Texas.

Official:

GEO. L. HARTSUFF,
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

HEADQUARTERS DISTRICT OF TEXAS,
Galveston, Texas, May 29, 1867.

GENERAL: In reply to your communication of the 25th instant, enclosing copy of despatch to General Grant in reference to Circular Order No. 13, current series, from these headquarters, I have the honor to state that it was issued solely to protect loyal residents in their lives, liberties, and property.

All the unqualified Unionists of Texas, so far as my observation extends, approve of the order and beg that it may not be modified, declaring that they would much prefer having their suits tried by a jury of loyal blacks than by one composed of disloyal whites.

The many appeals made to district headquarters by Union citizens, in all parts of the State, for protection against the unjust acts of the courts, necessitated some measure of relief.

It was after weeks of reflection and consultation with the ablest legal minds

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that I became satisfied that this object could only be accomplished by requiring that the jurors shall be composed of loyal men.

The oath is the same as that required by Congress from all government officials.

There was no intention in this order to prescribe whether the jurors should be white or black.

The decision of this question rests with the local authorities whose duty it is to impanel juries.

The State enactment, defining the disqualifications of jurors is still in force, so far as it does not conflict with the civil rights bill; and this enactment requires that each juror shall not only be a voter, but a householder in the county or freeholder in the State.

This one qualification excludes nearly every colored voter.

The class who clamor against the order are, for the most part, those who failed, after four years of war, to sever the Union, and have not yet learned the lesson of loyalty.

Many who protest the loudest and are most unscrupulous in their misinterpretation of the jury order, are disfranchised: their object is attained if they can again fill the jury boxes of Texas with men of secession antecedents, inimical to the general government, and hostile towards Union citizens. Their motto seems to be "Rule or ruin."

His excellency Governor Throckmorton, in a recent communication to the President of the United States, declared "that the federal judges holding the courts of the United States for this State have ruled that the petit jurors of their courts are not required to take the oath contained in the order referred to."

This is a grave misstatement; no such ruling has ever been made.

The only truthful rendering that can be made of Circular No. 13 is that it is an attempt to open the courts of Texas to loyal jurors for the protection of all good citizens.

Upon the passage of the military bill, the people of the State were ready to submit to the will of the national Congress, and had the disfranchised office-holders been superseded, as they themselves expected, by loyal appointees, the courts to-day would have been administering justice as impartially as they are doing in New York or Massachusetts.

But no removals have been made, and some officials have taken courage. They are allowing the inference to circulate that no man who ever gave a crust of bread or a drink of water to a rebel soldier can take the required oath. By this they hope to show that the courts of justice are practically closed, and thus obtain a modification or revocation of the order.

In conclusion, I do not hesitate to say that there is not an organized county in the State where, with proper officials, loyal juries cannot be obtained.

I am, general, very respectfully, your obedient servant,

CHARLES GRIFFIN,
Brevet Major General U. S. Army, Commanding.

Major General P. H. SHERIDAN,
Commanding Fifth Military District, New Orleans, Louisiana.

Official copy respectfully furnished General Grant, commanding armies of the United States, for his information.

P. H. SHERIDAN,
Major General U. S. Army.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., May 23, 1867.

[From New Orleans, May 23, 1867.—Received 7 p. m., in cipher.]

GENERAL GRANT: The most encouraging reports are coming in from every section of the State of the progress and success of registration.

If the Attorney General is to give an interpretation, it should be sent as soon as possible, otherwise the registration may be unnecessarily delayed beyond the time allotted, viz., the 30th of June.

P. H. SHERIDAN,
Major General.

Official:

GEO. K. LEET,
Assistant Adjutant General.

ADJUTANT GENRRAL'S OFFICE,
Washington, D. C., July 6, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

HEADQUARTERS ARMY UNITED STATES, *May* 13, 1867.

Respectfully forwarded to the Secretary of War for his information.

U. S. GRANT, *General.*

WAR DEPARTMENT,
Washington City, May 29, 1867.

[Copy of telegram—sent 2.30 p. m.]

Major General SHERIDAN, *New Orleans:*

Recalling your attention to General Grant's telegram in respect to the extension of time of registration in your district, especially at New Orleans, which appears to have been received after you had made a temporary extension, you will please make such further extension at New Orleans and through your district as may be necessary to secure a full and fair registration. Please acknowledge this telegram.

EDWIN M. STANTON,
Secretary of War.

Official copy:

E. D. TOWNSEND,
Assistant Adjutant General.

OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., May 30, 1867.

[From New Orleans, May 30, 1867—5.45 p. m.]

GENERAL: On the twenty-seventh (27th) instant I extended the time for registration in this city to June twentieth, (20th.) The most cheering reports are sent in by the boards throughout the State of the success of registration and the good will with which they were received by all classes. There is a very good condition of affairs throughout my command. Last night the largest po-

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litical assembly which ever collected together in this city, mostly of colored people, paraded the streets without the slightest disturbance. I had made every preparation should any disturbance occur, but did not show publicly a single soldier. I desired to make this case a test one, and the result was most satisfactory.

P. H. SHERIDAN,
Major General U. S. Army.

General U. S. GRANT,
Commanding Armies of the United States.

Official: E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

[Telegram.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., May 30, 1867.

SIR: I have the honor to acknowledge the receipt of your telegram of yesterday's date, directing a further extension of registration. I had already (on the 27th instant) extended the time in this city to the 20th June next, and should it be necessary will further extend it. The registration in the State extends to June 30, and will, if necessary, be extended still further; but I think it will be completed before that time, as the boards of registration throughout the State have had great success in the undertaking. So far they have been well received, and report most favorably of the encouragement given to them by all classes.

P. H. SHERIDAN,
Major General U. S. Army.

Hon. EDWIN M. STANTON, *Secretary of War.*

Official:

GEO. LEE,
First. Lieut. 21st U. S. Infantry, A. A. A. General.

Official copy:

E. D. TOWNSEND,
Assistant Adjutant General.

[Cipher telegram.]

WAR DEPARTMENT,
Washington City, June 3, 1867—12 m.

Major General SHERIDAN, *New Orleans:*

Application having been made to the President by the governor of Louisiana, and others, for revocation of your order removing the board of levee commissioners, and that the State authorities be permitted to proceed in the execution of the State laws, the President directs that all further proceedings be suspended until further information. You will please report the facts in relation to your order, with the reasons for making it.

EDWIN M. STANTON,
Secretary of War.

Official copy:

E. D. TOWNSEND,
Assistant Adjutant General.

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[Telegram.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., June 3, 1867.

SIR: I have the honor to acknowledge the receipt of your telegram of this date in reference to the levee commissioners in this State.

The following were my reasons for abolishing the two former boards, although I intended that my order should be sufficiently explanatory:

Previous to the adjournment of the legislature last winter it passed an act continuing the old levee board in office, so that the four millions of dollars ($4,000,000) in bonds appropriated by the legislature might be disbursed by a board of rebellious antecedents.

After its adjournment the governor of the State appointed a board of his own, in violation of this act, and made the acknowledgment to me in person that his object was to disburse the money in the interest of his own party by securing for it the vote of the employés at the time of election.

The board continued in office by the legislature refused to turn over to the governor's board, and each side appealed to me to sustain it, which I would not do. The question must then have gone to the courts, which, according to the governor's judgment when he was appealing to me to be sustained, would require one year for decision. Meantime the State was overflowed, the levee boards tied up by political chicanery, and nothing done to relieve the poor people, now fed by the charity of the government and charitable associations of the north.

To obviate this trouble, and to secure to the overflowed districts of the State the immediate relief which the honest disbursement of the four millions ($4,000,000) would give, my order dissolving both boards was issued.

I say now, unequivocally, that Governor Wells is a political trickster and a dishonest man. I have seen him myself, when I first came to this command, turn out all the Union men who had supported the government, and put in their stead rebel soldiers, some of whom had not yet doffed their gray uniform. I have seen him again, during the July riot of 1866, skulk away where I could not find him to give him a guard, instead of coming out as a manly representative of the State and joining those who were preserving the peace. I have watched him since, and his conduct has been as sinuous as the mark left in the dust by the movement of a snake.

I say again that he is dishonest, and that dishonesty is more than must be expected of me.

P. H. SHERIDAN,
Major General U. S. Army.

Hon. E. M. STANTON,
Secretary of War, Washington, D. C.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 34.—Extract.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., May 3, 1867.

* * * * * *

3. To relieve the State of Louisiana from the incubus of the quarrel which now exists between his excellency the governor and the State legislature, as to

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which political party shall have the disbursement of the four million dollars ($4,000,000) of levee bonds authorized by the last legislature, and in order to have the money distributed for the best interests of the overflowed district of the State, all existing or pretended boards of levee commissioners are hereby abolished, and the following board appointed. It will be obeyed and respected accordingly.

* * * * * *

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Cipher telegram.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, Louisiana, June 4, 1867.

SIR: In obedience to your telegram of yesterday, I suspended the operations of the levee commissioners.

It is very important that this board of honest and capable men be permitted to go on with their labors.

The State has been overflowed, and wide-spread destruction has followed; in addition there are many debts due to laboring men.

Now is the time to commence work on the levees, and it will be a great misfortune to the State to let the funds appropriated be controlled by unscrupulous politicians.

P. H. SHERIDAN,
Major General U. S. Army.

Hon. E. M. STANTON,
Secretary of War, Washington, D. C.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Cipher telegram.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, Louisiana, June 6, 1867.

SIR: I see that Governor Wells asserts that he appointed his board of levee commissioners in accordance with law. This is not so. There was no law for the appointment of his board in the statutes of Louisiana, and the governor of Maine might as well have done so.

He also asserts that the bonds were being negotiated. This is not so either. There was simply an agent sent on to have the bonds struck off in New York.

P. H. SHERIDAN,
Major General U. S. Army.

Hon. E. M. STANTON,
Secretary of War, Washington, D. C.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., June 4, 1867.

[From New Orleans, June 4, 1867—2 p. m.]

GENERAL: Have returns of registration from most of the parishes of this State, also the reports of the officers supervising, and can report to you the greatest success and the best of feeling existing among the people.

P. H. SHERIDAN,
Major General U. S. Army.

General U. S. GRANT,
Commanding Armies of the United States.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

UNITED STATES MILITARY TELEGRAPH, WAR DEPARTMENT.

[From New Orleans, La., June 4, 1867—12.30 p. m.]

GENERAL: I found it necessary yesterday to remove Governor Wells. He has embarrassed me very much since I came in command by his subterfuge and political chicanery. This necessary act will be approved here by every class and shade of political opinion. He has not a friend who is an honest man.

I enclose by mail copy of the order removing him.

P. H. SHERIDAN,
Major General U. S. Army.

General U. S. GRANT.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT.

[From New Orleans, La., June 6, 1867.—Received 11.10 p. m., in cipher.]

GENERAL: Mr. T. J. Durant having declined the appointment of governor of this State, Mr. B. F. Flanders has been appointed in his stead. The backbone of the trouble has been broken by the removal of Governor Wells. I think you need not hereafter have any anxiety about the condition of affairs here.

P. H. SHERIDAN,
Major General.

General U. S. GRANT.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

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[By telegram in cipher.]

WASHINGTON, *June* 7, 1867.

Major General P. H. SHERIDAN, *New Orleans, La.*:

I see a despatch from Washington announcing that the Secretary of War and myself favored a reprimand for your action in removing the governor of Louisiana. I was not even in the city at the time. There is not one word of truth in the story.

U. S. GRANT, *General.*

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

UNITED STATES MILITARY TELEGRAPH, WAR DEPARTMENT.

[Received in cipher from New Orleans, La., June 8, 1867—2.45 p. m.]

General U. S. GRANT:

Governor Flanders assumed the duties of his office this morning. He is a man of integrity and ability, and I now feel as though I was relieved of half of my labors. As it has been heretofore there was no security, and I feel, as the people of the whole State feel, that we have gotten rid of an unprincipled governor and the set of disreputable tricksters which he had about him. Nothing will answer here but a bold and strong course, and in taking it I am supported unanimously by every class and party.

P. H. SHERIDAN,
Major General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., June 10, 1867.

[From New Orleans, June 10, 1867—1.50 p. m.]

GENERAL: I have returns up to the present date from twenty-five parishes of this State, and find that over fifty-seven thousand (57,000) voters have been registered, and everything going on well.

P. H. SHERIDAN,
Major General U. S. Army.

General U. S. GRANT,
Commanding Armies of the United States.

Official:

GEO. K. LEET, *Assistant Adjutant General.*

HEADQUARTERS ARMIES UNITED STATES, *June* 10, 1867.

Respectfully forwarded to the Secretary of War for his information.

U. S. GRANT, *General.*

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 6, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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HEADQUARTERS DISTRICT OF TEXAS,
Galveston, June 10, 1867.

MAJOR: I beg to represent to the major general commanding the district the necessity of superseding some of the officials in this State; they are attempting to make it appear that the courts are closed by the enforcement of Circular No. 13, current series, from these headquarters.

Many of the officers were nominated on their record of disloyalty to the general government, and elected upon the merits of their services in the attempt to destroy it. Numbers are disfranchised; while the sympathy of others is with the "lost cause." Union men are averse to having the courts presided over by such officials. Judge J. J. Holt, of the tenth judicial district, states that he was unable to hold court in Lavaca county, owing to the impossibility of obtaining jurors who could take the oath. He exhausted the regular venire, then declined to go outside, as the law provides, for jurors.

The governor has forwarded thirty-eight names, all white, who are qualified to act as registrars, and I have sixteen white from other sources.

Judge Holt's antecedents are of the most disloyal character, and I have assurances that he is as confirmed a rebel to-day as at the hour secession was declared; and Mr. Wesley Ogden, of Lavaca, Calhoun county, is recommended as his successor.

In the eighth district, presided over by Judge H. B. Malry, no court was held in Titus or Wood counties; the others are not heard from. The judge and district attorney allowed the disloyal bar outside to construe the oath to mean that no man who had ever given a dinner or a pair of socks, or anything, to a rebel soldier, whether relative or friend, could take the oath, thus deterring Union men from doing their duty.

His excellency J. W. Throckmorton has furnished me with the names of thirty-five men, all white, from Titus, qualified to act as registrars, and I have some from other sources. Wood county elected a Union man to the reconstruction convention by a vote of two to one, and was called the "free State of Wood" during the war, owing to the loyal principles of her inhabitants. A list for registrars has not yet been received from the governor, but the best of assurances are given that qualified jurors can be found in abundance. The name of Winston Banks is presented as a proper person to supersede Judge Malry, and A. P. Shuford to supersede G. T. Todd, the present district attorney. My attention has been called to other officers who have failed to carry out Circular No. 13, and to some who endeavored to dissuade, by their language, freedmen from registering; still, it is my aim to request as few removals as possible, but some are necessary for a check.

I am, major, very respectfully, your obedient servant,

CHAS. GRIFFIN,
Brevet Major General U. S. A., Commanding.

Major GEORGE A. FORSYTH, *Secretary of Civil Affairs,*
Headquarters Fifth Military District, New Orleans, La.

Official copy respectfully furnished General U. S. Grant, commanding armies of the United States, for his information.

P. H. SHERIDAN,
Major General U. S. Army.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

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[Special Order No. 65.—Extract.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., June 10, 1867.

I. In June, 1866, Judges Thomas H. Stribling and W. P. Bacon, strong Union men, were elected judges of the fourth and eleventh judicial districts in Western Texas by large majorities. The legislature of the State afterwards passed an act, approved October 11, 1866, to take effect December 31, 1866, abolishing the fourth and eleventh judicial districts of the State by consolidation with other districts, thereby creating districts of such extent as to make it impossible to administer justice within them through the courts. The sole object of this act, as publicly stated by its advocates, having been to get rid of the before-mentioned judges on account of their political opinions, regardless of the public interests or wishes, said act will be considered as null and void, and the numbers and boundaries of these judicial districts, as they existed before the passage of the act, restored. Judges Thomas H. Stribling and W. P. Bacon will resume the duties of judges of the districts to which they were respectively elected.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

SAN ANTONIO, TEXAS, *March* 28, 1867.

SIR: The undersigned citizens of the city of San Antonio, Texas, beg leave to call your attention to a great evil which the people of this portion of our State now suffer in consequence of the partial and unjust action of our last legislature, and most respectfully ask of you to remedy this evil.

Prior to the rebellion there were two judicial districts in Western Texas, known as the fourth and the eleventh. The former was composed of the counties of Bexar, Comal, Blanco, Gillespie, Kerr, and Kendall, and the latter of the counties of Presidio and El Paso. During the rebellion the people of these districts were distinguished for their loyalty to the government of the United States, and, in consequence, they were greatly persecuted and suffered much. The convention called by Governor Hamilton, under the direction of the President, in the constitution framed and submitted to the people for their adoption, did not pretend to change these judicial districts, but the convention, on the last day of its session, when many of its members had returned home, passed a separate ordinance whereby they authorized the legislature, at its first session, or at any time thereafter, to redistrict the State so as to equalize and apportion the labor of the several judges. As we stated, this ordinance did not form a part of the organic law, and Union men supposed at the time it was intended as a pretext to legislate out of office all persons elected who might be opposed to the principles of secession. The constitution expressly declares that judges shall be elected by the qualified voters of the district, and that they shall hold their offices for and during the term of eight years.

At the first election in June last, Thomas H. Stribling, a prominent and well-known Union man, was elected judge of the fourth judicial district over a very prominent and active rebel, by about eight hundred majority. W. P. Bacon,

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another prominent Union man, and who had served in the Union army, was elected judge of the eleventh judicial district with only sixteen dissenting votes, and that over an active rebel, who has since received an official appointment of importance under the present State government.

The legislature at its last session, under the pretext of appointing and equalizing the labor of the different judges, partitioned and divided out these and two other districts, which had also elected Union judges, among the surrounding judges, who were lately active rebels and are now notorious rebel sympathizers; and thus, not one Union judge was left in the State, and the avowed argument used in the legislature in support of this extraordinary proceeding was, to get rid of the radical judges.

This county of Bexar was added to the fourteenth judicial district, of which B. F. Neal is the district judge and resides at Corpus Christi, about 180 miles distant, and with little or no communication between the places. Judge Neal had been a member of the State legislature before the rebellion and was an active participator in the rebellion. He is therefore not eligible to the office under the military bill. The counties of Comal and Gillespie, Kerr and Kendall, of the fourth; Medina, Uvalde, Frio, Maverick, and Kinney, and Bandera, of the eighteenth; Presidio and El Paso, of the eleventh, and two other counties, were all included in one district and called the fourth, and the judge of the eighteenth, G. H. Noonan, was, by legislative enactment, made judge of this district. The county of Blanco, of the fourth, was added to the judicial district of John Ireland, a well-known rebel sympathizer and remarkable for his hostility to the government of the United States. Judge Noonan was originally a Union man, and in his sympathies for the rebel cause has never been violent, and is believed now to be Union in his feelings and sentiments and is a very good man. The only office held by Judge Noonan before the rebellion was that of notary public, and he was judge of the eighteenth district during the rebellion. It is impossible, however, for him to discharge the duties of district judge over a country of more than seven hundred miles in extent, from the county of El Paso to Comal.

By this nefarious act of the legislature more than three thousand voters were disfranchised in the fourth judicial district, and they placed under the jurisdiction of two other judges, in both of whose districts together there were not more than two-thirds the number of voters. This county, Bexar, alone, has a population very nearly as large as both those judicial districts. This, by far the largest commercial city in the interior of Texas, is left without a judge to grant a conservative writ without travelling a week's journey to procure the order. And all this has been inflicted upon us because of the election of Union judges.

Now we, the undersigned, loyal citizens of this city, ask of you to remedy this evil, and if, under the provisional government, judges are to be maintained, as we suppose from your order they will be, we beg that the judicial districts be restored to the condition in which they were at the beginning of the rebellion, and as they continued up to the time of the action of the last legislature. We ask that Judge Thomas H. Stribling be restored to the fourth judicial district, and W. P. Bacon, of El Paso, to the eleventh, to which they were respectively elected by such large Union majorities in June last. They are both true Union men, able and competent. Judge Stribling held the office of district judge for a time under the confederacy, until forced to leave the country on account of his Union sentiments, but never held any position, prior to the rebellion, as a public functionary, except as alderman of this city. Judge Bacon took no part in the rebellion. Of course we should also rejoice to see the other two judges elected last June, and legislated out of office on account of their

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Union sentiments, restored, but, as we have no direct interest in the matter, we leave it to your own judgment. All of which is most respectfully submitted.

T. Cross.	W. B. Moore.
L. York.	Christopher Rhodins.
F. Schenck.	Julius Dreser.
August Notte.	I. A. Paschal.
Dr. T. Hertzberg.	E. Degener.
L. Iwowski.	John C. French.
E. Pentenrieder.	A. Dillmar.
W. A. Brunett.	Peyton Smythe.
R. Wulfing.	I. I Thornton.
M. Slocum.	Alexander Rosey.
William W. Gamble.	C. E. Rowendorf.
S. P. Gambia.	Samuel Bell.
	D. Bell.

Major General P. H. SHERIDAN,
Commanding Military District of Louisiana and Texas,
Headquarters, New Orleans.

[Extract.]

CORPUS CHRISTI, TEXAS, *April* 23, 1867.

* * * * * *

Without the aid of the United States troops our laws are not well executed; in fact, they are a farce. Our district judge, an inefficient man with strong rebel proclivities, disqualified for holding the office by the constitutional amendment, as he was a member of the State legislature and engaged in the rebellion, raised a company in this place, and while in command of it two northern men were inhumanly murdered without any kind of trial, for attempting to make their escape to the blockading vessels off Arkansas Pass, near where the company was stationed. I am informed that the judge did not take an active part in the tragical affair, but was only too inefficient to prevent it.

The community at large complain of him as a judge, and there are more suitable men within the district that are and have been truly "loyal" men, and of unswerving national principles, and such a man is Thomas H. Stribling of San Antonio, considered to be by loyal men, and well, qualified to honor the situation.

I should not have turned your attention so much to this matter, only from the long acquaintance with this country and the people. I think that the best interests of the people require it.

Very respectfully, your obedient servant,

JOHN DIX,
Sub-Assistant Commissioner, &c.

First Lieutenant J. T. KIRKMAN,
Twenty-ninth U. S. Infantry, A. A. A. G.

A true copy:

N. PRIME,
Brevet Lieutenant Colonel.

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It appearing that an ordinance passed on the last day of the Texas State constitutional convention, dividing the State into new judicial districts, has resulted in the displacement of loyal judges and the maintenance in office of men of rebel sympathies, much to the detriment of the interests of the loyal people of western Texas, and it appearing, also, that owing to the extent of some of the judicial districts thus created justice cannot properly and promptly be administered, it is ordered that the judicial districts be re-established as existing before the passage of said ordinance, which is hereby rescinded.

The judges then in office will resume their judicial powers. This order will take effect on the 1st of July, 1867.

AUSTIN, TEXAS, *April* 30, 1867.

GENERAL: I have the honor to acknowledge the receipt of your letter of the 24th instant, making inquiry in regard to the district judges, and the cause of some of them having been legislated out of office. Enclosed I send you a list of the judges elected in June, 1866, and also memoranda of the judicial districts as they existed prior to the act of the last legislature reorganizing the districts. Mr. Allen, who goes down to-day, can give you very full information on the subject.

During the debate in the legislature upon the bill reorganizing these districts, Doctor Ashbel Smith, of Houston, one of the leading men of the house, as well as other speakers, stated and boasted that the districts had been so reorganized as to legislate out of office Judges Stribling and Bacon, whom he was pleased to denounce as "radicals," and regret was expressed that the districts could not be so arranged as to exclude Judge Noonan. Also, to show the iniquity of the reorganization, it is only necessary to cite the case of the counties of El Paso and Presidio, (Judge Bacon's district,) which were attached to the eighth district, at least 700 miles (through a country infested with Indians) distant from the residence of the judge, which is a clear and evident denial of the protection of the laws to these counties, which vote about 1,500 votes.

Very respectfully,

J. L. HAYNES.

Major General CHARLES GRIFFIN,
Commanding the Department of Texas, Headquarters, Galveston.

A true copy:

N. PRIME,
Brevet Lieutenant Colonel.

List of the judges elected June 25, 1866.

District No. 1. Benj. Stropshire, a rebel quartermaster.
District No. 2. John Ireland, a confederate receiver.
District No. 3. James E. Sheppard, a rebel colonel.
District No. 4. Thomas H. Stribling,* Union man.
District No. 5. C. Payn.*
District No. 6. M. D. Ector, rebel general.
District No. 7. J. R. Kennard.*
District No. 8. H. P. Mabray, rebel colonel.
District No. 9. Reuben A. Reeves, secession politician.
District No. 10. J. J. Holt, secession politician.
District No. 11. W. P. Bacon,* Union man.
District No. 12. Stephen Powers, a Yankee secessionist.
District No. 13. R. S. Gould, a rebel colonel.

* Legislated out of office.

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District No. 14. B. F. Neall, original Union man.
District No. 15. Lane Wilson.
District No. 16. J. J. Good, rebel brigadier general.
District No. 17. T. P. Hughes,* original Union man, but fell from grace.
District No. 18. G. H. Noonan, Union man.
District No. 19. Thomas Harrison, rebel general.
District No. 20. W. G. T. Weaver, original Union man.

J. L. HAYNES.

Judicial districts, as they stood before the last act of the legislature.

District No. 1. Fayette, Colorado, Wharton, Fort Bend, Brazoria, Matagorda, and Austin.
District No. 2. Travis, Hayes, Guadaloupe, Caldwell, and Bastrop.
District No. 3. Washington, Brazos, Burleson, and Milam.
District No. 4. Comal, Kendall, Kerr, Blanco, Gillespie, and Bexar.
District No. 5. Newton, Jasper, Sabine, Shelby, San Augustine, and Nacogdoches.
District No. 6. Wood, Upshur, Harrison, Panola, and Rusk.
District No. 7. Walker, Grimes, Harris, Montgomery, and Galveston.
District No. 8. Red River, Bowie, Davis, Titus, Hopkins, Marion, Lamar.
District No. 9. Houston, Cherokee, Anderson, Smith.
District No. 10. Victoria, Jackson, La Vaca, Dewitt, Gonzales, and Calhoun.
District No. 11. Presidio, El Paso, and Worth.
District No. 12. Cameron, Hidalgo, Starr, Zopata, Webb, and Kenney.
District No. 13. Madison, Robertson, Falls, Limestone, Hill, Freestone, Leon, and Navarro.
District No. 14. San Patricio, Live Oak, Karnes, Goliad, Bee, Refugee, and Nueces.
District No. 15. Chambers, Liberty, Polk, Trinity, Tyler, Hardin, Jefferson, and Orange.
District No. 16. Ellis, Johnson, Parker, Dallas, Tarrant, Kaufman, and Vanzandt.
District No. 17. Burnett, Starr, Mason, Menard, McCulloch, San Saba, Brown, Lampasas, Williamson.
District No. 18. Atascosa, Bandera, Uvalde, Medina, Wilson, Maverick, and Kenney.
District No. 19. Bell, Coryell, Hamilton, Comanche, Palo Pinto, Earth, Bosque, and McLennan.
District No. 20. Collins, Denton, Hunt, Wise, Jack, Fannin, Young, Throckmorton, Archer, Clay, Montague, Cook, and Grayson.

For districts as arranged by last legislature see General Laws, XI, p. 26, and also p. 28.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., June 18, 1867.

[From New Orleans, Louisiana, June 18, 1867—12.40 p. m.]

General U. S. GRANT, *Commanding Armies of the United States:*

I have the honor to report that I have extended the registration in the parish of Orleans until the thirtieth (30th) June, at which time registration will be

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closed in this city. In the State there are now eighty thousand voters registered, which indicates that the registration in the State is nearly completed, In eighteen hundred and sixty (1860) the vote of the State was fifty thousand, (50,000.) I will extend the time until the tenth of July in some of the parishes where the population is large, so as to give no just grounds of complaint. I have to say again that the registration throughout the State has been harmonious, the boards having been kindly received everywhere.

P. H. SHERIDAN,
Major General U. S. Army.

Official: E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

STATE OF LOUISIANA, EXECUTIVE DEPARTMENT,
New Orleans, June 18, 1867.

GENERAL: I have the honor to forward herewith a memorial addressed to me, and signed by many respectable citizens of the parish of Natchitoches, in relation to the murder of Cyrus W. Stauffer, and the arrest, safe-keeping, and trial of his murderers.

The memorial has an indorsement by Major Cromie, sub-assistant commissioner of the Freedmen's Bureau, who gives it as his opinion that an impartial trial of the parties charged with the crime and a just verdict cannot be had in the civil courts of th esection of counrty where the killing was done, and he suggests that they be taken and tried by a military commission.

This opinion is supported by the testimony of other parties, disclaiming any prejudice toward the parties implicated. I believe the ends of justice require that they should be tried by a military commission.

Should you acquiesce in this course, the prisoners would come under military custody, and their safety be secured, of which grave apprehensions are expressed by the memorialists if they are allowed to remain in the parish jail.

I would state that as soon as I received authentic information of the murder, and that the chief party engaged had escaped, I offered a reward of one thousand dollars for his arrest, a copy of which proclamation is herewith annexed.

The name of Beuvens is not named in the petition of the memorialists as implicated in the murder, but I have evidence that he was, and that he is in prison on that charge.

I am, very respectfully, your obedient servant,

BENJAMIN F. FLANDERS,
Governor of Louisiana.

Major General P. H. SHERIDAN,
Commanding Fifth Military District.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

Proclamation by Benjamin F. Flanders, governor of the State of Louisiana.

ONE THOUSAND DOLLARS REWARD.

Whereas I have official knowledge that an atrocious murder was committed by John T. Jones, aided and abetted by R. B. Jones, Richard Jones, and Isadore Beuvens, on the person of Cyrus W. Stauffer, at the town of Natchitoches, on the 3d day of June, 1867; and whereas the said John T. Jones is still at

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large: now, therefore, in the name and by the authority of the State, I do hereby offer a reward of one thousand dollars for the arrest of the said John T. Jones, and his delivery to the sheriff of the parish of Orleans.

Given under my hand and seal of the State, at the city of New Orleans, this fifteenth day of June, A. D. 1867, and the independence of the United States the ninety-first.

BENJAMIN F. FLANDERS.

By the governor:

J. H. HARDY,
Secretary of State.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

NATCHITOCHES, LA., *June* 10, 1867.

We, the undersigned, loyal citizens of the parish of Natchitoches, would most respectfully make the following statement:

On the third instant Mr. C. W. Stauffer was murdered by John S. Jones, aided by his two brothers, Robert B. Jones, late judge of the supreme court, and Dr. Richard Jones. John S. Jones escaped, and is at large at present. Robert B. Jones and Dr. Richard Jones are now confined in the parish jail in the town of Natchitoches, and as the evidence against them shows conclusively that they all three conspired to murder Mr. Stauffer, and from the district attorney's statement, that these two in confinement are as guilty as the one escaped, and the jail being not secure nor in a condition for the safe-keeping of criminals, we would most respectfully request you to have the above-mentioned persons removed and confined in a secure place, and a reward offered for the apprehension of John S. Jones.

We have the honor to be, governor, very respectfully, your obedient servants,

I. I. A. MARTIN.
M. P. BLACKSTONE.
J. R. WILLIAMS.
JOSEPH MARTIN.
JAMES GENIUS.
I. LEONARD BALLARD.
GEORGE MONROE.
CHARLES H. BALLARD,
THEODORE SHUMAN.
W. S. CY. SHEPHERD, *Fl. M.*
ROBERT G. LADD.
S. PARSON.
RAFORD BLUNT.
CHARLES LEROY.
J. H. CONNER.
R. E. HAYWARD,
H. JAFFA.
ISAAC HORN.

His Excellency B. F. FLANDERS,
Governor State of Louisiana,
New Orleans, La.

Official:

GEORGE LEE,
First Lieut. 21*st U. S. Infantry, A. A. A. General.*

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NATCHITOCHES, LA., *June* 10, 1867.

The within request has been presented to me, by a few of those whose names are signed. I know them all to be loyal. I willingly bear testimony to the facts, and would further state that it was one of the most atrocious murders ever committed in a civilized community; the testimony is so complete, that there is no doubt but a conspiracy was entered into for the purpose of killing Mr. S. There is no doubt but they will have a change of venue; and if such is the case, they will either make their escape from this prison or be acquitted in another parish. It has been urged on me that I should represent that the military authorities should take it in charge; and from the fact that three-fourths of the grand jury here are disfranchised, there is good ground that these men will either escape or be acquitted, and I respectfully and earnestly join in the request that they either be tried by a military commission, or taken from this place for better security.

JAMES CROMIE,
Capt. Veteran Reserve Corps and Bvt. Major U. S. Vols.,
Assist. Com. Bureau Refugees, Fourth Sub-Dist. of Louisiana.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

OFFICE OF ATTORNEY GENERAL,
New Orleans, June 18, 1867.

SIR: I have examined the accompanying memorial addressed to his excellency Governor Flanders by several respectable citizens of Natchitoches, and the indorsement thereon by Major Cromie, an officer of the Freedmen's Bureau, in relation to the case of the brothers Robert B. and Dr. Richard Jones, charged with the murder of Cyrus W. Stauffer, at Natchitoches, on the 3d instant.

From this examination and my own knowledge of the laxity and inefficiency with which the criminal laws of the State are now administered in many of the parishes on Red river; from the demoralization and lawlessness of jurors in these parishes; the corruption and tricks resorted to in selecting them at criminal trials; the social and pecuniary influences brought to bear on them by influential well-to-do offenders; the fear of the vengeance of desperate criminals; the poverty and isolation of the widow of the deceased, and his well known uncompromising principles of loyalty and devotion to the government, I have no hesitation in expressing my conviction that the parties charged with the assassination of Cyrus W. Stauffer can be brought to justice only by means of a trial by a military commission. In saying this, I desire to cast no blame or reproach on the judiciary of that section. It is not the judges, but the other instrumentalities of the courts that have left the criminal law of Louisiana a dead letter in many of the parishes.

I therefore respectfully indorse the suggestion in the governor's letter of this

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date, as to the expediency of trying Robert B. and Dr. Richard Jones by a military commission.

Very respectfully, your obedient servant,

B. L. LYNCH,
Attorney General of Louisiana.

Major General P. H. SHERIDAN,
Commanding Fifth Military District.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., June 20, 1867.

GENERAL: The governor and the attorney general of the State of Louisiana having represented that the civil authorities will not be able to retain the murderers of C. W. Stauffer in custody and administer justice in the case, and having recommended that they be taken charge of by military authority and tried by military commission, the major general commanding directs that you take from the civil authorities at Natchitoches, Louisiana, the charge and custody of Robert B. Jones and Dr. Richard Jones, accused of the murder of Mr. Stauffer, and that you cause the arrest, if possible, of John S. Jones, also accused of said murder, and keep them securely in charge until further orders from these headquarters.

I am, general, very respectfully, your obedient servant,

G. L. HARTSUFF,
Assistant Adjutant General.

Brevet Major General J. A. MOWER,
Commanding District of Louisiana, New Orleans, La.

Official copy:

GEORGE LEE,
A. A. Adjutant General, Fifth Military District.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 8, 1867.

Official copy:

E. D. TOWNSEND,
Assistant Adjutant General.

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., June 21, 1867.

Respectfully forwarded to Brevet Major General John A. Rawlins, chief of staff, armies of the United States, for the information of General U. S. Grant.

P. H. SHERIDAN,
Major General U. S. Army, Commanding.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 8, 1867.

Official copy:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

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OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., June 19, 1867.

[From New Orleans, June 19, 1867—5.50 p. m.]

General U. S. GRANT, *Commanding Armies of United States:*

Since my telegram of yesterday I have additional information of the registration in Louisiana.

The latest returns made the number of registered voters eighty-seven thousand four hundred and eighty-eight, (87,488.) There will be a large number of whites in the State who are entitled to register, but who decline on account of objection to the military bill.

P. H. SHERIDAN,
Major General U. S. A.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, June 19, 1867.

COLONEL: Pursuant to Special Orders No. 70 of the 17th instant, from these headquarters, and under instructions from the commanding general, I proceeded to Thibodeaux, Louisiana, yesterday, and respectfully submitted the following report regarding affairs in that place, referring more particularly to the trouble which resulted in the arrest and confinement of Charles Daniels, late a lieutenant of the thirteenth Connecticut volunteers; Paul Cole, late private of the seventy-eighth United States colored infantry; and Albert J. Brooks, colored.

It appears that, on the evening of the 9th instant, Daniels, in some way, came in contact with, upon the street, a man named Wm. E. Niles, who was drunk. Niles was wrangling with another ex-confederate about a small dog, whose ill-looks he was defending, when Daniels approached. Niles then turned his attention to the new-comer, and, having a knife in his hand, probably cut Daniels, though this point is not very clear, and is of little importance, as the man was drunk, and the affair could not have been premeditated.

The cut received by Daniels on the finger was very slight, scarcely any trace of it being visible now; but as blood was upon his hand he naturally became somewhat excited, and ran to the coffee-house kept by Brooks, and told him and the people lounging about that Niles had cut him, and asked for a pistol to defend himself. Daniels is a member of the club (political) of which Brooks is president, and is one of their acknowledged champions. Brooks seems to have behaved very well under the circumstances; counselled the boys to do nothing rash, and went himself to the mayor and demanded that Niles he immediately arrested and lodged in jail. The mayor, fearing trouble, promptly ordered the arrest, which was made—a number of the colored people going to the jail to be sure of it, and nearly all of them following Daniels home to see that no one molested or harmed him.

All now became quiet. The colored people were satisfied and went peacably to their homes while it was yet early.

Niles was put under bonds to keep the peace the next morning, and with this the whole matter should have ended. Not one of the citizens of Thibodeaux, who saw the whole affair, would make affidavit against Daniels or Brooks charging them with inciting a riot. The only person who felt called upon to

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do so was Mr. J. D. Rich, agent of the Freedmen's Bureau, who acknowledges that he did not see or even hear anything of the trouble until the next day. Mr. Rich filed an affidavit with Mr. Rogers, justice of the peace, which reads as follows:

STATE OF LOUISIANA, *Parish of Lafourche:*

Personally appeared before the undersigned, justice of the peace in and for the parish of Lafourche, Major James D. Rich of said parish, and provost marshal, located at Thibodeaux, who first being duly sworn, deposes: That Albert J. Brooks, Charles Daniels, and Paul Cole, with others unknown to affiant, on the occasion of an affray between Wm. E. Niles and Charles Daniels on the night of the ——, wherein the latter was slightly cut in the hand, and the former immediately afterwards incarcerated in the common jail of the parish, and thereupon the said Brooks, Daniels, and Cole did, by word, discourse, conversation, and action, create an excitement among the colored citizens of the neighborhood, and cause fifty or more to congregate, most of them being armed, in the town of Thibodeaux, and thereupon did use such discourse, conversation, sign, and action, calculated to bring about a riot and insurrection, to the great terror of the peaceable citizens of Thibodeaux, and which acts and demonstrations, discourse, conversation, and action on the part of said Brooks, Daniels, Cole, and others, having a tendency to produce discontent among the *free colored* population of this State, all of which is contrary to the form of the statute of the State of Louisiana, in contempt of the authority of the State aforesaid, and against its peace and dignity, wherefore said affiant prays that said Brooks, Daniels, Cole, and others, be apprehended and dealt with according to law.

J. D. RICH.

Sworn and subscribed to before me this 10th day of June, A. D. 1867.

JAMES ROGERS,
Justice of the Peace.

Upon this affidavit Justice Rogers issued warrants and caused the arrest of the parties accused. The two colored men were examined upon the 10th instant, refused bail by the justice, who ruled that their offence was criminal to the extent made punishable with hard labor, or death, at the discretion of the court, under the 28th section of what is known as the "black code" of the State laws of Louisiana (see Revised Statutes of 1856) and therefore not bailable, though good and sufficient security for their appearance was offered, and they were committed to jail to await trial before the third district court at its next term, which will be in December of the present year, although the said court was then in session, and has continued so until to-day when it adjourned, at Thibodeaux.

Daniels being sick was not arrested until the 11th instant, when he was examined and disposed of the same way, and by virtue of the same law, as had been the two colored men.

Mr. Rich, whose duty as bureau agent should be to be present at all trials affecting the rights of colored persons, and act as their counsel in case they were not better provided for, and see that justice was administered, not only made the affidavit against the parties whose interest he should have had at heart, and not only failed to counsel them, but volunteered to assist Justice Rogers, and, unsworn, acted as clerk at the examination, (the original testimony now in the possession of Rogers is in the handwriting of Rich,) thus assisting and acquiescing in what appears to be a great injustice in committing these parties upon the distorted decision of an ignorant and prejudiced magistrate, founded upon a law which can only be considered as obsolete, and null and void from the date of the act establishing the civil rights bill.

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None of the parties had counsel at their examination. Daniels told me that he applied to Colonel Bush, one of the most prominent lawyers of the place, to defend him, and received the answer, "It will hurt my business in Thibodeaux. I had rather not engage in your case."

Of the testimony offered it is not my province to decide upon. I enclose with this such rough copies of the same as I could obtain from the shabby memorandum called by Justice Rogers records of proceedings. It will be seen that the witness for the State, of most importance next to Mayor Gresamore, is Justice Rogers himself, who permitted himself to testify before himself to make the case clearer. Doubtless he believed himself, and, deciding to commit, gave his own testimony due weight. I believe Mayor Gresamore, an ex-confederate officer, to be an honest man, and that he gave his testimony conscientiously; what he saw and heard appeared to him to be the foreboding of trouble. None of the colored men complain of the mayor. He was only anxious for the peace of the city and acted wisely in the prompt arrest of Niles. Brooks is a man of great influence among his people, and any demonstration would naturally be charged to his leadership. Regarding the man Cole, I am unable to find or hear of any evidence whatever against him, except that he was with Brooks. He is probably considered as accessory to the crime of which Brooks is not guilty. Cole was with Brooks during the evening of the trouble. Only one examination was had for them both, and Cole appears to have been confined more for the sake of keeping Brooks company than by virtue of any evidence referring at all to him. The head and front of Daniels's offending seems to be that he went home followed by the crowd. To the mayor this style of going home protected looked like Daniels heading a procession. Mr. Gresamore thinks he saw three guns upon the shoulders of three men.

Upon my arrival in Thibodeaux I immediately went to Justice Rogers and asked him why these prisoners were not admitted to bail, and who was responsible for their detention. He said he was not, and under the instructions of the district judge to his juries he had no jurisdiction; that the judge was responsible. I then started to find the judge, Fred. Gates, Rogers following me and seeming somewhat anxious—asking Judge Gates the same questions I had asked Rogers. I found he was not willing to shoulder the wrong. He said he had no official knowledge of the case, and could not be expected to go out of his court inquiring for criminals to release. "However," says he, "I can assure you no one is to blame but the prisoners themselves; they prefer to remain in jail. They have only to apply to the sheriff to be bailed out. If they had only asked the sheriff to take their bonds and let them go at large, I would have instructed him to receive them." I then went with the sheriff to the jail, leaving the judge talking with Rogers, saying I was anxious to see the three men who preferred to remain in jail. The prisoners were all anxious to get out on any terms. Mrs. Daniels was with her husband, and I despatched her at once for security for his bond, telling her to make formal application again, and if the bond was not accepted to let me know it. I also sent a man on the same errand for the negroes. The bonds were accepted and the three prisoners released yesterday, conditioned to appear for trial at next term of court, or from term to term until they be tried on an indictment to be made by the district attorney from the records sent up by the justice committing when he shall make his returns, although the judge of the district court still persists that such bail is all wrong if the men were fairly committed under the "black code," which he shall continue to regard as law until instructed otherwise by the supreme court. The bail for Daniels was fixed at one thousand dollars; that of the colored men at five hundred each.

The whole affair looks very much like a persecution for partisan reasons, and I think it was clearly the intention of all the civil officers concerned to keep or allow the prisoners to remain in jail until the next term of court.

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Judge Gates's sympathies are with the rebels, and in cases where they are arrayed against Union men his administration of justice needs watching.

Justice Rogers is a bitter and unrepentant old rebel, an appointment of Governor Wells, and I have no hesitation in saying he would take the trouble to go beyond the line of his duty to injure a Union man, as this affair shows. He is unfit for the position he occupies.

Daniels is a man of weak nature, and is not entitled to as much consideration as I could wish he was. He is often visibly under the influence of liquor.

The conduct of Rich has been reprehensible in the extreme. He has been relieved by General Mower from duty as bureau agent, and ought to be relieved from his position as registrar. He has not the confidence of the colored people, whom he has never befriended and often led astray, nor the respect of the whites whose dupe he has been.

Another man, whose influence is bad upon the negroes, is Justice Lartin, an extreme radical, now in this city as member of the republican convention. This man was as zealous for the confederate cause in its beginning as he is now for radicalism. He has been known to go on a plantation during working hours and induce all hands to leave and come to the registration office, telling them it was their last chance before they were reduced again to slavery. He then charges them a small fee for the information. To be mild, he is a lunatic; yet in his madness is a method.

The leading colored men make no complaint of being disturbed at their meetings. They say they are allowed to meet and speak as they please, suffering no annoyance except now and then from an idler or two who lounge about and laugh at them.

Lieutenant Warren is at Thibodeaux since the 15th instant, with fourteen men of the thirty-ninth infantry. The mayor says he has no objections to the presence of troops, but does not consider them necessary for the preservation of peace. I apprehend no further trouble.

Very respectfully, your obedient servant,

NATHANIEL BURBANK,
Second Lieut. 37th U. S. Infantry, Ass't Sec. for Civil Affairs.

Brevet Colonel GEORGE A. FORSYTH,
Secretary for Civil Affairs.

Official copy:

GEORGE LEE,
Acting Assistant Adjutant General.

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, Louisiana, June 22, 1867.

GENERAL: I respectfully call the attention of the General-in-chief to the enclosed report of one of my staff officers, showing the manner of administering justice in the parish of Lafourche, Louisiana.

I am, sir, very respectfully, your obedient servant,

P. H. SHERIDAN,
Major General United States Army, Commanding.

Brevet Major General JOHN A. RAWLINS,
Chief of Staff, Armies of the United States, Washington, D. C.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

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OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., June 20, 1867.

[From New Orleans, June 20, 1867.]

GENERAL: I forward by to day's mail the reasons for the reinstating of the two Union judges in Texas. The reported conduct of the officer at El Paso is a humbug. However, the post is yet and has been under General Sherman's command. Doubtless the people of El Paso county sought justice in the courts of New Mexico, as that county used to do formerly; because when Judge Bacon, who lives there, was legislated out of office and that county joined to another district, no courts could be held on account of the great distance and the necessity of having a large escort between San Antonio and El Paso.

P. H. SHERIDAN,
Major General United States Army.

General U. S. GRANT.

Official:

GEO. K. LEET, *A. A. G.*

[Indorsement.]

HEADQUARTERS ARMIES U. S., *June* 22, 1867.

Respectfully forwarded to the Secretary of War for his information.

U. S. GRANT, *General.*

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 6, 1867.

Official copy:

E. D. TOWNSEND,
Assistant Adjutant General.

HEADQUARTERS SUB-POST OF SHREVEPORT, LA.,
Jefferson, Texas, May 24, 1867.

SIR: I have the honor to submit the following statement of facts concerning an outrageous, cold-blooded murder perpetrated in the city of Jefferson, and the action of the civil authorities and myself in the matter.

On the morning after the murder, early, a negro came to my quarters and reported that another negro, Rough Alexander, had been called out of bed and shot the night before, and that circumstances pointed strongly toward Hugh Freeman, a young white man, as the murderer; also, that it was probable that Freeman would escape unless I took measures to arrest him. Shortly afterwards another negro came to me and reported that the coroner's jury was holding an inquest, and that Freeman was still in town, at liberty. I ordered a sergeant and eight men to cross the bayou and await my orders, and went myself to hear the testimony of the witnesses and note the course pursued by the coroner and his jury.

J. C. Jones, esq., justice of the peace, was acting as coroner; the jury was composed of white citizens. The testimony of the witnesses, particularly that of Mr. Draper, a white citizen, confirmed the popular belief that Freeman was one of the parties guilty of the murder. Freeman and the negro had had a quarrel a day or two before, when Freeman beat the negro over the head with a revolver. This, by the way, is a trick which Freeman indulges in pretty freely, *i. e.*, beating negroes for amusement. Two other parties were *particeps criminis* with Freeman in this affair—John Shepherd and a young man by the name of

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Tumlin. Shepherd entered the house at night, sent a negro into Alexander's room to call him out, tried to get him out of the house, beat him over the head with a revolver, and then shot him through the breast. The negro staggered to his wife, fell, and died. Shepherd went out, but soon returned, got a fagot, or rather ordered a negro to get one, and then examined his victim to see if his work was fully accomplished, after which all three went away. While the murder was being perpetrated Freeman stood as guard at the door, and Tumlin at the window.

So strongly did the evidence point to Shepherd as the one who fired the fatal shot that Jones, the justice of the peace, issued a warrant for his arrest, which warrant he offered first to John L. Whitmore, deputy sheriff, and then to L. H. Wright, constable, both officers refusing flatly to take it, or undertake the arrest. Had there been no troops here there might be some reason for these officers refusing to arrest those men, as their (Freeman's and Shepherd's) friends were prepared to attempt, if not effect, a rescue or resistance; but about two hours before the sheriff told me he might need assistance, and I informed him that I had made arrangements for that, and could have a squad there in less than five minutes at any time; and both Whitmore and Wright saw me in the room where the coroner's jury convened, and knew that they could get assistance from me. The conduct of these officers in this matter is such, I think, as to demand a removal, if nothing more severe. If they will not execute a warrant for the arrest of a murderer, what security is there for life here? Shortly afterward Whitmore and Wright both pointed out Shepherd, walking alone over a hill about half a mile off, but neither seemed at all disposed to arrest him. Calling the squad, (which I had in the meantime sent for, by request of the magistrate,) I ran after Shepherd, and soon came in sight of him and Freeman and another man, the latter two on horses, near a thicket outside the city on the Marshall road. All three ran—Freeman down the road, and the others into the thicket. They were fired after, but without effect. Before I could get to where they had been they were out of sight. I immediately sent a non-commissioned officer to the telegraph office with a telegram for Lieutenant Hawley, at Marshall, to look for the murderers on the road to that place. After hunting in the thickets awhile I returned to the city, and found that Freeman had returned to the city on full gallop, and rode unmolested through the streets. I have learned since that several parties had buckled on their revolvers with the intention of attempting a rescue, in case I made any arrests. I have not been able to learn who these parties were.

The action of the coroner and his jury deserves some notice. J. C. Jones, justice of the peace, acting coroner, did all in his power to bring the guilty parties to justice; he did his duty fully, and I have not the least doubt if other officers and the coroner's jury had not acted as stumbling blocks instead of aids that the murderer and his accomplices would be under guard to-day and awaiting trial. The jury smothered down all evidence which pointed out the guilty parties, as far as they could. They said the negro came to his death by a shot; their duty was ended; it was not their business to find out who committed the deed; that was the business of the next district court. The coroner had half a dozen other witnesses whom he wanted to examine, for the purpose of fixing the crime on the guilty parties, but the jury refused to listen to them. The murderers are still at large. I have watched for them, and once sent a squad of soldiers to the city to search for them, (since the day after the murder,) but have not succeeded in getting a clue of their whereabouts. The most respectable part of the citizens have expressed a regret that such an occurrence should take place here, especially as they think (knowing that it should be so) that it will make it harder for them in having military officers to take the place of their inefficient civil officers. But the rough class, which greatly predominates here, rejoice at seeing justice foiled in every instance where a negro or "yankee" is

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interested, and are ever ready to aid in baffling the efforts of all who may attempt to see justice done.

I have the honor to be, sir, most respectfully, your obedient servant,

STANTON WEAVER,
First Lieut. 20th U. S. Infantry, Commanding Sub-post.

POST ADJUTANT, *Shreveport, Louisiana.*

[Indorsements.]

HEADQUARTERS POST OF SHREVEPORT,
Shreveport, Louisiana, June 1, 1867.

Respectfully forwarded. I have directed First Lieutenant Thomas Latchford, commanding sub-post of Shreveport, Jefferson, Texas, to arrest the persons named in this communication as the murderers, to suspend in office Deputy Sheriff John L. Whitmore and Constable L. H. Wright, until the orders of the commanding general of fifth military district be known; to call upon the civil authorities to make the arrest, or assist him in making it; to report any failure in compliance on their part, and all facts looking to their removal from office he may see fit to report.

Should the arrest be made, knowledge thereof will be immediately forwarded, and a military commission requested for the trial of the accused.

Attention is respectfully invited in this connection to an accompanying copy of memorandum instructions from these headquarters to Lieutenant Thomas Latchford, commanding sub-post of Shreveport, Jefferson, Texas, covering this case, with others.

I have the honor to recommend that Deputy Sheriff John L. Whitmore and Constable L. H. Wright be removed from office.

J. M. CUTTS,
Bv't Lieutenant Colonel U. S. A.,
Capt. Twentieth U. S. Infantry, Commanding Post.

HEADQUARTERS DISTRICT OF LOUISIANA,
New Orleans, Louisiana, June 13, 1867.

Respectfully forwarded to Brevet Colonel George A. Forsyth, United States army, secretary civil affairs fifth military district.

JOSEPH A. MOWER,
Bv't Major General U. S. Army, Commanding District of Louisiana.

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, Louisiana, June 14, 1867.

Official copy of letter and indorsements.

GEORGE A. FORSYTH,
Bv't Colonel U. S. Army, Secretary Civil Affairs.

Official copy:

GEORGE LEE,
Acting Assistant Adjutant General.

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HEAQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, Louisiana, June 20, 1867.

Respectfully forwarded to Brevet Major General John A. Rawlins, chief of staff, armies of the United States, for the information of General U. S. Grant.

P. H. SHERIDAN,
Major General U. S. A. Commanding.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Extract from memorandum instructions given by Brevet Lieutenant Colonel J. M. Cutts, commanding post Shreveport, Louisiana, to Lieutenant Latchford, commanding sub-post of Jefferson, Texas.

A copy of Lieutenant Weaver's communication is herewith enclosed to you, and you are hereby instructed to use your best endeavors to arrest the parties therein named as the murderers, viz: John Shepherd, Tomlin, and Hugh Freeman. You will use sufficient force for the purpose indicated, act with secrecy, promptness, and despatch, and should you be unable to arrest the parties accused, you will furnish me with a full and accurate description of them, to be furnished post commanders throughout the States of Texas and Louisiana, should the commanding general fifth military district so direct. You will yourself communicate with First Lieutenant William Hawley, commanding sub-post of Shreveport, Marshall, Texas, who has been made acquainted with the subject-matter, and been directed to make the arrest himself, or to render you all the assistance in his power, or which you may require. You will suspend Deputy Sheriff John L. Whitmore and Constable L. H. Wright in their offices, and absolutely forbid them to exercise, or attempt to exercise, any of the duties of their offices until the orders of the commanding general fifth military district in the case can be received. Should they attempt to violate this order, you will arrest either or both of them. You will call upon the mayor of Jefferson and the sheriff of the county and inform them of the action you have been directed to take; also upon the judge of the court, if there be one, and you will require of the civil authorities to use their utmost endeavors to make the arrests themselves, or assist you in making the same; and should they fail to do so, you will report the fact to these headquarters, with such information or suggestions, looking to their removal from office, as the facts may authorize.

J. M. CUTTS,
Brevet Lieut. Col. U. S. Army, Capt. 20th Infantry, Comd'g Post.

A true copy of extract from memorandum instructions.

GEORGE BALDEY,
First Lieut. U. S. Army, A. D. C., Sec. of Civil Affairs.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Special Orders No. 72.—Extract.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., June 19, 1867.

* * * * * *

6. It having been officially reported to these headquarters that an atrociously cold-blooded and deliberate murder was committed in Jefferson, Texas, and

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that Deputy Sheriff John L. Whitmore and Constable L. H. Wright, of that place, each absolutely refused to execute a warrant legally issued for the arrest of the murderer, said officers are hereby removed from their respective offices. The commanding officer at Jefferson will, if possible, cause the arrest of the murderer.

* * * * * *

By command of Major General P. H. Sheridan:

GEORGE L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

Official copy:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., June 21, 1867.

[From New Orleans, June 21, 1967.]

GENERAL: I have extended the registration in the State of Louisiana until the fifteenth (15th) of July. I consider the registration now nearly closed, but deemed it best to give fifteen days' grace. I wrote you some time ago about the necessity for additional funds; some will be necessary, but not as much as I expected. My expenses so far are only thirty-six thousand (36,000) dollars. Our system has been very complete, thorough, and economical.

P. H. SHERIDAN,
Major General United States Army.

General U. S. GRANT,
Commanding United States Armies.

Official:

GEO. K. LEET, *A. A. G.*

[Indorsement.]

HEADQUARTERS ARMIES U. S., *June* 22, 1867.

Respectfully forwarded to the Secretary of War for his information.

U. S. GRANT, *General.*

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 6, 1867.

Official copy:

E. D. TOWNSEND,
Assistant Adjutant General.

WAR DEPARTMENT,
Washington City, D. C., June 21, 1867—1.30 p. m.

Major General SHERIDAN, *Commanding, &c., New Orleans, La.:*

Your telegram to General Grant, proposing to close the registration in New Orleans on the 30th of this month, and at some other places in Louisiana on the

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10th of July, has been submitted to the President, who is of opinion that the proposed limitation of time for registry will be too short for a full and fair registration, and that electors in your district should be allowed until the first of August to register themselves, especially as it is not probable that the registration in other districts will be completed before that time. He therefore directs that the registry be not closed before the first of August, unless there be some good reason to the contrary, which you will report for the President's information and judgment.

By order of the President:

E. D. TOWNSEND,
Assistant Adjutant General.

JUNE 21, 1867.

The Adjutant General will transmit by telegraph the foregoing instructions to General Sheridan.

By order of the President:

EDWIN M. STANTON,
Secretary of War.

Official copy:

E. D. TOWNSEND,
Assistant Adjutant General.

OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., June 27, 1867.

[From New Orleans, June 27, 1867.]

GENERAL: The result of Mr. Stanbery's opinion is now beginning to show itself by a defiant opposition to all acts of the military commander by impeding and rendering helpless the civil officers acting under his appointment. For instance, the mayor of this city notifies the common council that one and a quarter (1¼) million of illegal money has been issued by the comptroller and treasurer. The common council refuse to investigate to ascertain the facts. The city attorney refuses to sue it on injunction to stop the issue. I fear the chaos which the opinion will make if carried out is but little understood. Every civil officer in the State will administer justice according to his own views; many of them, denouncing the military bill as unconstitutional, will throw every impediment in the way of its execution; and bad will go to worse unless this embarrassing condition of affairs is settled by permitting me to go on in my just course, which was indorsed by all the people except those disfranchised, most of whom are office holders or desired to be so.

P. H. SHERIDAN,
Major General United States Army.

General U. S. GRANT, *Commanding, &c.*

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., June 28, 1867.

[From New Orleans, La., June 28, 1867—11 a. m.—Received 1 p. m., in cipher.]

GENERAL: I am in receipt of a communication from the Adjutant General's department, dated 20th June, in reference to registration. I am at a loss to

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know whether it is an order or not. The form and phraseology is not that of an order; but I may be mistaken, and ask for information whether I am to regard it as an order.

P. H. SHERIDAN,
Major General.

General U. S. GRANT.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., June 28, 1867.

[From New Orleans, June 28, 1867—12.50 p. m.]

GENERAL: Returns from forty-three (43) parishes out of forty-eight (48) in this State show eighty-seven thousand nine hundred and forty-one (87,941) registered voters, as far as reported, up to present date.

P. H. SHERIDAN,
Major General United States Army.

General U. S. GRANT,
Commanding Armies United States.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

[By telegraph, in cipher.]

WASHINGTON, *June* 28, 1867.

Major General P. H. SHERIDAN, *New Orleans, Louisiana:*

Your despatch of yesterday received. Enforce your own construction of the military bill until ordered to do otherwise. The opinion of the Attorney General has not been distributed to district commanders in language or manner entitling it to the force of an order. Nor can I suppose that the President intended it to have such force.

U. S. GRANT, *General.*

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

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[Telegram.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., June 29, 1867.

Brevet Major General E D. TOWNSEND,
Assistant Adjutant General, Washington, D. C.:

GENERAL: The registration in the State of Louisiana will be continued in obedience to the orders of the President unless I receive further orders from him to the contrary.

P. H. SHERIDAN,
Major General U. S. Army.

ADJUTANT GENERAL'S OFFICE,
Washington, D. C., July 2, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[By telegraph, in cipher.]

WASHINGTON, D. C., *June* 29, 1867.

Major General P. H. SHERIDAN, *New Orleans, Louisiana:*

I think it advisable for you to extend the time for registration in Louisiana to the 10th of July, throughout the State. The President will have returned before that, and decide as to the further extension.

U. S. GRANT, *General.*

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., July 2, 1867.

[From New Orleans, 6.30 p. m., July 2, 1867.—Received 8.40 p. m.]

GENERAL GRANT, *Commanding:*

I did not get your despatch of June 29 until to-day. It was mislaid in the Washington office. I had already ordered the extension in the State, except parish of Orleans, until the 15th of July, and after receipt of your letter of the 24th the extension was made indefinite. The boards now have nothing to do in this city and in most of the parishes.

P. H. SHERIDAN,
Major General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

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OFFICE U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,
Washington, D. C., July 2, 1867.

[From New Orleans, July 2, 1867—7.45 p. m.]

General U. S. GRANT, *Commanding:*

GENERAL: The latest returns from forty-seven (47) parishes of this State show one hundred and two thousand one hundred and twenty-six (102,126) voters registered. As some of the returns are fifteen days' old there will be considerable increase up to the present date.

P. H. SHERIDAN,
Major General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

Transmitted by General Grant, and received at Adjutant General's office, July 8, 1867.

General orders from the headquarters of the fifth military district, 1867.

[General Orders No. 1.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., March 19, 1867.

I. The act of Congress entitled "A n ct to provide for the more efficient government of the rebel States" having been officially transmitted to the undersigned in an order from the headquarters of the army, which assigns him to the command of the fifth military district, created by that act, consisting of the States of Louisiana and Texas, he hereby assumes command of the same.

II. According to the provisions of the sixth section of the act of Congress above cited, the present State and municipal governments in the States of Louisiana and Texas are hereby declared to be provisional only, and subject to be abolished, modified, controlled, or superseded.

III. No general removals from office will be made, unless the present incumbents fail to carry out the provisions of the law or impede the reorganization, or unless a delay in reorganizing should necessitate a change. Pending the reorganization, it is desirable and intended to create as little disturbance in the machinery of the various branches of the provisional government as possible, consistent with the law of Congress and its successful execution; but this condition is dependent upon the disposition shown by the people, and upon the length of time required for reorganization.

IV. The States of Louisiana and Texas will retain their present military designations, viz: "District of Louisiana" and "District of Texas." The officers in command of each will continue to exercise all their military powers and duties as heretofore, and will in addition carry out all the provisions of the law within their respective commands, except those which specifically require the action of the military district commander, and except in cases of removals from, and appointments to, office.

P. H. SHERIDAN,
Major General Commanding.

Official:

E. D. TOWNSEND,
Assitant Adjutant General.

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[General Orders No. 2.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., March 23, 1867.

Major G. A. Forsyth, 9th United States cavalry, is announced as secretary to the major general commanding, for the transaction of business of an exclusively civil character.

All communications and applications on subjects of that nature will be addressed to him.

By command of Major General P. H. Sheridan:

GEORGE L. HARTSUFF,
Assistant Adjutant General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Orders No. 5.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., March 27, 1867.

Andrew S. Herron, attorney general State of Louisiana, John T. Monroe, mayor city of New Orleans, and Edmund Abell, judge first district court, city of New Orleans, are hereby removed from their respective offices from 12 m. today; and the following appointments made, to take effect from the same date, viz:

B. L. Lynch to be attorney general State of Louisiana, Edward Heath to be mayor city of New Orleans, and W. W. Howe to be judge first district court, city of New Orleans.

Each person removed will turn over all books, papers, records, &c., pertaining to his office to the one appointed thereto, and the authority of the latter will be duly respected and enforced.

By command of Major General P. H. Sheridan:

GEORGE L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st Infantry, A. A. A. General.

[Circular No. 1.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., April 16, 1867.

For the information of registers appointed under the "supplemental bill," and of all others concerned, it is hereby announced that according to the decision of the Treasury Department no revenue stamps are required on the certificates of registry of voters.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

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[Circular No. 2.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., May 8, 1867.

The boards of registers throughout this command are requested to forward to these headquarters, with the least practicable delay, the name of a suitable person, resident of their district, who can act as agent for the Agricultural Department at Washington in the distribution of seeds and plants to be sent out from Washington for that purpose. Great care should be taken by the boards that only efficient and responsible citizens be selected. The name, occupation, and post office address of the person so selected will be given.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Circular No. 3.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., May 11, 1867.

The attention of the boards of registers throughout the State of Louisiana is called to the fact that in some of the district courts of the city of New Orleans false certificates of citizenship have been issued for the purpose of procuring fraudulent registration.

All cases of such illegal certificates will be promptly reported to these headquarters by the board to which they may be presented.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

Special Orders from the headquarters fifth military district, 1867.

[Special Orders No. 7.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., March 28, 1867.

* * * * * *

II. It is hereby announced, for the information and guidance of all concerned, that no elections for State, parish, municipal or judicial offices will be held in the State of Louisiana until the provisions of the law of Congress entitled "An act to provide for the more efficient government of the rebel States," and of the act supplemental thereto, shall have been complied with. Until elections are held in accordance with those acts, the law of the legislature of the State of Louisiana, approved March 15, 1867, which provides for the continuance in the performance of their duties of those persons whose term of office would other-

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wise have expired, will govern all cases except those which may be specially acted upon at these headquarters.

By command of Major General P. H. Sheridan:

GEORGE L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Special Orders No. 13.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., April 8, 1867.

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III. Special Orders No. 7, current series, from these headquarters, in reference to the election of public officers in the State of Louisiana, not having been received in the parish of Livingston, Louisiana, in time to prevent an election previously ordered there, the same has been held contrary to the directions contained in that order. The election is therefore declared to be null and void.

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By command of Major General P. H. Sheridan:

GEORGE L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A A. A. General.

[Special Orders No. 15.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., April 10, 1867.

* * * * * *

II. In obedience to the directions contained in the first section of the law of Congress, entitled "An act supplemental to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the registration of the legal voters according to that law in the parish of Orleans will be commenced on the 15th instant, and must be completed by the 15th of May.

The four municipal districts of the city of New Orleans and the parish of Orleans, right bank, (Algiers,) will each constitute a registration district. Election precincts will remain as at present constituted.

The following appointments of boards of registers is hereby made, to continue in office until further orders, viz:

First district: John A. Roberts, William Baker, and W. M. Geddes.

Second district: Edward Ames, T. C. Thomas, and Michael Vidal.

Third district: Charles F. Berens, Jno. McWhirter, and H. Stiles.

Fourth district: Jno. L. Davis, Henry Bensel, jr., and Edmund Flood.

Orleans parish, right bank: W. H. Seymour, Thomas Kenefec, and George Herbert.

Each member of the board of registers, before commencing his duties, will file in the office of the assistant inspector general at these headquarters the oath required in the sixth section of the act referred to, and be governed in the execution of his duty by the provisions of the first section of that act, faithfully administering the oath therein prescribed to each person registered.

Boards of registers will immediately select suitable offices within their re-

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spective districts, having reference to convenience and facility of registration, and will enter upon their duties on the day designated. Each board will be entitled to two clerks. Office hours for registration will be from 8 o'clock till 12 a. m., and from 4 till 7 p. m.

When elections are ordered, the board of registers for each district will designate the number of polls, and the places where they shall be opened in the election precincts within its district, appoint the commissioners and other officers necessary for properly conducting the elections, and will superintend the same.

They will also receive from the commissioners of elections of the different precincts the result of the vote, consolidate the same, and forward it to the commanding general.

Registers and all officers connected with elections will be held to a rigid accountability, and will be subject to trial by military commission for fraud, or unlawful or improper conduct in the performance of their duties. Their rate of compensation and manner of payment will be in accordance with the provisions of sections six and seven of the supplemental act.

Brevet Brigadier General J. W. Forsyth, assistant inspector general of the fifth military district, is hereby directed to supervise the boards of registration for the parish of Orleans, to listen to and adjust, or refer to this office, all just causes of complaint. He is authorized to employ such experts as may be necessary to detect fraud in registration or elections.

Every male citizen of the United States twenty-one years old and upward, of whatever race, color, or previous condition, who has been resident in the State of Louisiana for one year and the parish of Orleans for three months previous to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be, and shall be, registered as a legal voter in the parish of Orleans and State of Louisiana.

Pending the decision of the Attorney General of the United States on the question as to who are disfranchised by law, registers will give the most rigid interpretation to the law, and exclude from registration every person about whose right to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, shall be permitted to register after that decision is received, due notice of which will be given.

By command of Major General P. H. Sheridan:

GEORGE L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Special Orders No. 22.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., April 19, 1867.

I. Mr. Henry Bensel, jr., having resigned his position as register in the fourth registration district, parish of Orleans, Mr. Theodore A. James is hereby appointed in his place.

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By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

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[Special Orders, No. 23.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., April 20, 1867.

I. In obedience to the directions contained in the first section of the law of Congress, entitled "An act supplemental to an act entitled 'An act to provide for the more efficient government of the rebel States,'" the registration of the legal voters, according to that law, in the State of Louisiana, will be commenced on the 1st of May and must be completed by the 30th of June.

Each parish of the State will constitute a registration district. Election precincts will remain as at present constituted, unless changed by the boards of registers.

The following appointments of boards of registers are hereby made, to continue in office until further orders, viz:

Ascension—H. G. Ingham, Emile Collins, Charles Thorn.
Assumption—J. A. Massicott, Joseph Duplantier, Eudaldo Pintado.
Avoyelles—Albert H. Blake, J. T. Edwards, W. W. Lamberton.
Baton Rouge, E—G. M. Husted, S. Wrotnowski, Henry S. Babin.
Baton Rouge, W—William Callinan, Julius G. Badenhausen, H. C. Schoonmaster.
Bienville—William H. Finegan, J. J. Healy, W. H. Hounes.
Bossier—James H. Dobie, C. A. Brown, Lewis Bohn.
Caddo—W. S. Henthorn, Frederick A. Fuller, C. L. Sweet.
Calcasieu—P. Burns, Henry Carstens, James Hodges.
Caldwell—Richard Byrne, Joseph Blanks, George R. Carleton.
Carroll—George A. Sheridan, John Levy, James T. Reed.
Catahoula—Edward S. Wilson, Thomas B. Waters, Charles Doherty.
Claiborne—Charles B. Slack, Benjamin D. Harrison, James T. Story.
Concordia—R. Marshall, W. Cutler, Dr. Thomas B. Waters.
De Soto—John Chenville, Thomas Carey, John Morton.
Feliciana, E—Charles W. Thing, Minus P. Day, Frank Roig.
Feliciana, W—Robert Worrell, Carlos Wilcox, John McElise.
Franklin—Charles H. Merritt, Elias Carter, Edward Costine.
Iberville—George L. Gaskell, Nelson Kenyon, William Brown.
Jackson—George W. Ferguson, Kent M. Dowden, Allen Green.
Jefferson—W. D. Smith, S. S. Henry, John Payne.
Lafayette—James Fry, Dr. F. E. Piquette, R. W. Stanley.
Lafourche—A. J. Baby, John Sarlot, E. E. Le Blanc.
Livingston—C. D. Ludecke, N. F. Hyer, Amos Morrison.
Madison—James L. Wright, S. P. Dangerfield, Patrick Walsh.
Morehouse—W. A. Moulton, S. G. Parsons, E. F. Buckingham.
Natchitoches—O. N. Blackington, A. Morrell, Cyrus W. Stauffer.
Ouachita—Charles E. Merrill, Zuinglius McKay, Ansel Edwards.
Plaquemine—Julius Lovell, H. E. Sawyer, R. H. McMillen.
Point Coupee—Silas Hannum, J. J. Huntley, H. D. Shepperd.
Rapides—Azariah F. Wild, George Dorman, John Strother.
Sabine—W. B. Cummins, Robert Stille, J. Piquee.
St. Bernard—Thomas Ong, Francis Estopinal, P. A. Rosseau.
St. Charles—George E. Emerson, Ernest Lanaux, Victor Laurent.
St. Helena—James Newton, John Ridge, J. C. Yerkes.
St. James—Charles Gray, Robert Hanly, N. S. Landry.
St. John Baptist—Mortimer F. Smith, Robert B. Carson, Alphonso Oubre.
St. Landry—Stephen J. Hill, J. J. Beauchamp, M. D. Cavanaugh.
St. Martins—Thomas L. Morris, Louis E. Laloire, Placide Bienvenu.
St. Mary's—A. S. Hall, Homer H. Smith, James J. Parkinson.
St. Tammany—Charles E. Stevens, Isaac Evans, Elijah Baxter.

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Tensas—R. D. Mitchell, J. B. Ludwick, R. B. Edgworth.
Terre Bonne—R. W. Francis, A. A. Stone, Emile Bass.
Union—E. H. Hosner, John Long, John L. Barret.
Vermillion—Rudolph Curtis, William George, J. C. Lea.
Washington—Joseph Chillet, George J. Pittfield, Alanson Faiks.
Winn—William Wright, Thomas S. Bacon, John Leland.

Each member of the boards of registers, before commencing his duties, will file with the chairman of his board, for transmittal to the assistant inspector general at these headquarters, the following oath: "I, A. B., do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God."

Registers will be governed in the execution of their duties by the provisions of the first section of the "supplemental act," faithfully administering the oath therein prescribed to each person registered.

Boards of registers will first organize and commence their duties at the court-houses of their respective parishes; they will afterwards move to such other points, having reference to convenience and facility of registration, as will insure the complete registration of their parishes in the shortest practicable time. The necessary expenses incurred for transportation in their respective parishes and in travelling within them, in accordance with this order, will be paid at these headquarters to each register on his affidavit approved by the supervising officer of his board and by the major general commanding the military district. Each board will be entitled to one clerk. Office hours for registration will be from 8 o'clock till 12 a. m., and from 4 till 7 p m.

When elections are ordered, the board of registers for each district will designate the number of polls, and the places where they shall be opened in the election precincts within each district, appoint the commissioners and other officers necessary for properly conducting the elections, and will superintend the same.

They will also receive from the commissioners of elections of the different precincts the result of the vote, consolidate the same and forward it to the commanding general.

Registers and all officers connected with elections will be held to a rigid accountability and will be subject to a trial by military commission for fraud, or unlawful or improper conduct in the performance of their duties.

The following named officers are hereby appointed to supervise the boards of registers of the parishes opposite their names, to listen to and to adjust, or refer to this office, all just causes of complaint:

Brevet Major Kinzie Bates, captain 1st United States infantry: Rapides, Avoyelles, St. Landry, St. Martin, Lafayette.

Brevet Captain B. F. Humphreys, first lieutenant 1st artillery: Calcasieu, Vermillion, St. Mary's.

Brevet Lieutenant Colonel Sheldon Sturgeon, captain 1st United States

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infantry: Point Coupee, West Baton Rouge, Iberville, Assumption, Lafourche, Terre Bonne.

First Lieutenant Clifford Stickney, 20th United States infantry: West Feliciana, East Feliciana, East Baton Rouge, Ascension, St. James, St. John Baptist.

Brevet Colonel A. D. Nelson, major 1st United States infantry: St. Charles, Jefferson, Plaquemine, St. Bernard.

Second Lieutenant Horace Binney, 20th United States infantry: St. Helena, Livingston, Washington, St. Tammany.

Second Lieutenant F. E. Pierce, 1st United States infantry: Caddo, DeSoto, Sabine, Natchitoches, Winn.

Captain D. T. Kirby, 39th United States infantry: Bossier, Claiborne, Union, Bienville, Jackson.

First Lieutenant John Hamilton, 1st United States infantry: Morehouse, Ouachita, Franklin, Caldwell, Catahoula.

Second Lieutenant B. Carney, 20th United States infantry: Carroll, Madison, Tensas, Concordia.

Every male citizen of the United States twenty-one years old and upward, of whatever race, color or previous condition, who has been resident in the State of Louisiana for one year and in his parish for three months previous to the date at which he presents himself for registration, and who has not been disfranchised by act of Congress or for felony at common law, shall, after having taken and subscribed the oath prescribed in the first section of the act herein referred to, be entitled to be and shall be registered as a legal voter.

Pending the decision of the Attorney General of the United States on the question as to who are disfranchised by law, registers will give the most rigid interpretation to the law, and exclude from registration every person about whose right to vote there may be a doubt. Any person so excluded, who may, under the decision of the Attorney General, be entitled to vote, shall be permitted to register after that decision is received, due notice of which will be given.

No person engaged on the boards of registration will be permitted to be a candidate for any office while so serving.

By command of Major General P. H. Sheridan:

GEORGE L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Special Orders No. 25.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., April 23, 1867.

I. Thomas N. Boylan, aide to the chief of police, having on the 15th instant intimidated freedmen by making false representations to them, thereby obstructing the laws, by causing them to leave the vicinity of the registering office in the first district of this city, is hereby discharged from the police force of the city of New Orleans, from 12 o'clock m. to-day.

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By command of Major General P. H. Sheridan:

GEORGE L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

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[Special Orders No. 26.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., April 24, 1867.

* * * * * *

II. The following named officers having been appointed in Special Orders No. 23, current series, from these headquarters, to supervise the boards of registers for the several parishes in the State of Louisiana, are hereby detached from their respective commands for that purpose, and will report to the acting assistant inspector general at these headquarters for instructions:

Brevet Major Kinzie Bates, captain 1st United States infantry;
Brevet Captain B. F. Humphreys, first lieutenant 1st artillery;
Brevet Lieut. Colonel Sheldon Sturgeon, captain 1st United States infantry;
First Lieutenant Clifford Stickney, 20th United States infantry;
Brevet Colonel A. D. Nelson, major 1st United States infantry;
Second Lieutenant Horace Binney, 20th United States infantry;
Second Lieutenant F. E. Pierce, 1st United States infantry;
Captain D. T. Kirby, 39th United States infantry;
First Lieutenant John Hamilton, 1st United States infantry;
Second Lieutenant B. Carney, 20th United States infantry.

The quartermaster's department will furnish each of the above-named officers, upon their application, with a horse, saddle, and bridle, to be receipted and accounted for by them.

Each officer so mounted will keep an account of his expenditures for forage and stable hire, and present the same at these headquarters for payment.

III. The following amendments and changes are hereby announced in the names of registers appointed in Special Orders No. 23 from these headquarters, dated April 20, 1867:

In the parish of Ascension, read Emile Colin for Emile Collins.

In the parish of Assumption, read Joseph Dupaty for Joseph Duplantier.

In the parish of Carroll, read John Leavy for John Levy.

In the parish of Feliciana, west, read John McElwe for John McElise.

In the parish of Assumption, Angus R. Mackenzie is appointed in place of J. A. Massicott.

In the parish of Bossier, E. K. Russ is appointed in place of Lewis Bohn.

In the parish of Natchitoches, Clark L. Ferguson is appointed in place of A. Morrell, and G. A. Hewlett in place of Cyrus W. Stauffer.

In the parish of Sabine, Henry N. Thayer is appointed in place of W. B. Cummins, and Gorham Munson in place of Robert Stille.

In the parish of Franklin, Charles E. Jordan is appointed in place of Edward Costine.

In the parish of Terre Bonne, J. R. Verret is appointed in place of Emile Bass.

In the parish of Concordia, Thomas Vowell is appointed in place of Thomas B. Waters.

By command of Major General P. H. Sheridan:

GEORGE L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

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[Special Orders No. 27.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., April 25, 1867.

I. Second Lieutenant Horace Binney, twentieth United States infantry, is hereby relieved from duty as supervisor of the board of registers for the parishes of St. Helena, Livingston, Washington, and St. Tammany, Louisiana, and First Lieutenant William J. Driggs, same regiment, is hereby detached and appointed in his place.

Lieutenant Driggs will report in person, without delay, to the acting assistant inspector general at these headquarters for instructions.

* * * * * *

IV. On the first day of June next the sextons of the various cemeteries in the city of New Orleans will make a return to the registers of their respective districts, appointed in Special Orders No. 15, current series from these headquarters, of the names and places of residence of all male persons above the age of twenty-one years buried in their respective cemeteries since the 15th day of April instant.

The secretary of the charity hospital in the city of New Orleans will also make a similar return, at the same time, of all male persons above the age of twenty-one years who may have died in that hospital during the same period.

The registers shall thereupon respectively note on the original register, opposite the names of such deceased persons, the word "dead."

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Special Orders No. 28.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., April 26, 1867.

* * * * * *

II. The following amendments and changes are hereby announced in the names of registers appointed in Special Orders No. 23, from these headquarters, dated April 20, 1867:

In the parish of Washington, read Alanson Parks for Alanson Faiks.

In the parish of Bossier, read C. A. Boon for C. A. Brown.

In the parish of Caddo, A. M. Miller is appointed in place of W. S. Henthorn.

In the parish of Lafayette, Francis Garrett is appointed in place of R. W. Stanley.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

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[Special Orders No. 29.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., April 27, 1867.

* * * * * *

III. John Glavey is hereby appointed register of voters in the parish of Carroll. So much of Special Orders No. 23 and 26, current series, from these headquarters, as relates to John Levy, is annulled.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Special Orders No. 30.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La, April 29, 1867.

* * * * * *

IV. The following changes are hereby announced in the names of registers of voters, appointed by Special Orders No. 15 and 23, current series, from these headquarters:

In the parish of Orleans, second district, Charles H. Roberts is appointed in place of Michael Vidal.

In the parish of Catahoula, John H. Quish is appointed in place of Charles Doherty.

In the parish of Union, Lorenzo M. Bronson is appointed in place of John Long.

In the parish of Lafourche, George Buttrick is appointed in place of John Sarlot.

In the parish of St. James, Florine Le Bourgois is appointed in place of N. S. Landry.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Special Orders No. 33.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., May 2, 1867.

I. On the 12th of February, 1866, the legislature of the State of Louisiana passed the following act, by which the residence qualification for policemen in this city was increased from two to five years, to take effect after the election then pending for a new mayor:

SECTION 1. *Be it enacted by the senate and house of representatives of the State of Louisiana in general assembly convened*, That from and after the next election of mayor for the city of New Orleans, the police of said city shall be organized by an ordinance determining the number of officers and men of which

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it shall be composed, and the places and functions to be assigned to said officers and men, respectively, as well as the salary to be allowed them, and the uniform they shall wear: *Provided*, That the salary of each policeman shall be eighty dollars per month.

* * * * * *

SECTION 3. *Be it further enacted, &c.*, That officers and men shall be selected from men who can read and write the English language, and who shall give evidence that they are citizens of the United States of America, and that they have resided in the city of New Orleans upwards of *five* consecutive years.

* * * * * *

The object of this act was to exclude ex-Union soldiers from the police force of this city. It was faithfully carried out by the newly elected mayor, John T. Monroe, and every ex-Union soldier discharged to make room for those of rebellious antecedents. To annul this unjust proscription, so much of the above act as requires a residence of five years is hereby suspended, and a residence qualification of two years adopted.

The mayor of this city, Edward Heath, is hereby directed to adjust the present police force so that at least one-half of said force shall be composed of ex-Union soldiers; and all acts and ordinances, State or municipal, in the way of this adjustment will be disregarded.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Special Orders No. 34.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., May 3, 1867.

* * * * * *

II. H. C. Farquher is hereby appointed register of voters, parish of Calcasieu, in place of James Hodges.

III. To relieve the State of Louisiana from the incubus of the quarrel which now exists between his excellency the governor and the State legislature, as to which political party shall have the disbursement of the four million dollars ($4,000,000) of "levee bonds," authorized by the last legislature, and in order to have the money distributed for the best interests of the overflowed district of the State, all existing or pretended boards of levee commissioners are hereby abolished, and the following board appointed. It will be obeyed and respected accordingly:

Effingham Lawrence, parish of Plaquemine; J. H. Oglesby, parish of Orleans; J. Burnside, parish of Ascension; W. D. Smith, parish of Jefferson; W. L. McMillin, parish of Carroll.

The existing laws respecting the duties, compensation, &c., of levee commissioners will remain in force.

The board will meet in the city of New Orleans on the 10th instant, to organize and to receive from the old board all the books, records, property, &c., pertaining to their offices and duties.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

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[Special Orders No. 35.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., May 4, 1867.

I. The following appointments of police jurors, to fill existing vacancies, are hereby announced:

Thomas N. Pulley, in place of John J. Willson, in ward No. 5, and Benjamin C. Williams, in place of William T. S. Pugh, in ward No. 7, parish of Carroll; Michael Olinde, jr., in place of J. B. St. Cyr, and B. L. Dayries in place of J. J. Planterigwes, in the parish of Point Coupee.

* * * * * *

III. The following changes are hereby announced in the names of registers of voters, appointed in Special Orders Nos. 23 and 26, current series, from these headquarters:

In the parish of Lafourche, J. D. Rich is appointed in place of E. E. Le Blanc; in the parish of Terrebonne, George H. Packwood is appointed in place of J. R. Verrett.

* * * * * *

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Special Orders No. 37.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., May 7, 1867.

I. The following changes are hereby announced in the names of registers of voters, appointed in Special Orders No. 23, from these headquarters, dated April 20, 1867:

In the parish of Concordia, Edward W. Cutter is appointed in place of W. Cutler; in the parish of Madison, W. F. Crane is appointed in place of James L. Wright.

* * * * * *

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Special Orders No. 38.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., May 8, 1867.

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IV. John W. Calcote is hereby appointed register of voters in the parish of Jackson, in place of Allen Green.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

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[Special Orders No. 39.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., May 9, 1867.

I. There appearing to be a necessity for more time for complete registration in the parish of Orleans than is given in Special Orders No. 15, from these headquarters, that time is hereby extended until the 31st of May.

* * * * * *

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Special Orders No. 41.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., May 11, 1867.

I. For issuing under the official seal of the court certificates of citizenship which are unauthorized by law, and false, whereby illegal registration might be accomplished, Lewis Power, clerk of the 5th district court of the city of New Orleans, is hereby dismissed from his office as clerk of said court.

* * * * * *

III. The following change is hereby announced in the names of registers of voters, appointed in Special Orders No. 23, from these headquarters, dated April 20, 1867:

In the parish of Claiborne, W. Jasper Blackburn is appointed in place of B. D. Harrison.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Special Orders No. 42.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., May 13, 1867.

* * * * * *

III. Mr. Francis A. Woolfley is hereby appointed clerk of the 5th district court in the city of New Orleans, in the place of Lewis Power, dismissed.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

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[Special Orders No. 45.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., May 16, 1867.

I. George Herbert is hereby appointed a member of the police jury, parish of Orleans, (right bank,) to second ward, vice John Ormond, resigned.

* * * * * *

IV. Until further orders no fire arms will be permitted to be carried either openly or secretly, by any person in the city of New Orleans, except such as may be authorized or required by law to carry the same, in the execution of their official duties. The mayor of the city will give such instructions to the police as may be necessary to insure a strict enforcement of this order, and any person found violating it will be subject to trial and punishment by military commission.

By command of Major General P. H. Sheridan :

GEORGE L. HARTSUFF,
Assistant Adjutant General.

Official :

GEORGE LEE,
First Lieut. 21*st U. S. Infantry, A. A. A. General.*

[Special Orders No. 48.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., May 21, 1867.

* * * * * *

V. A. E. Mather is hereby appointed register of voters in the parish of Rapides, Louisiana, in place of George Dorman.

By command of Major General P. H. Sheridan :

GEORGE L. HARTSUFF,
Assistant Adjutant General.

Official :

GEORGE LEE,
First Lieut. 21*st U. S. Infantry, A. A. A. General.*

[Special Orders No. 49.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., May 22, 1867.

* * * * * *

II. Paragraph 4, Special Orders No. 45, current series, from these headquarters in reference to carrying fire-arms, is hereby amended so as to include Algiers and Gretna, Louisiana. The chief municipal officers of those places will, respectively, carry out the provisions of the order referred to.

* * * * * *

By command of Major General P. H. Sheridan :

GEORGE L. HARTSUFF,
Assistant Adjutant General.

Official :

GEORGE LEE,
First Lieut. 21*st U. S. Infantry, A. A. A. General.*

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[Special Orders No. 50.—Extract.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., May 23, 1867.

* * * * * *

IV. Edward P. Goodwin is hereby appointed register of voters, parish of Lafayette, Louisiana, in place of Francis Garrett.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE, *July* 8, 1867.

Official:

E. D. TOWNSEND,
Assistant Adjutant General.

[Special Orders No. 53.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., May 27, 1867.

* * * * * *

II. The time for the completion of the registration of voters in the parish of Orleans, Louisiana, provided in Special Orders No. 15, and extended in Special Orders No. 39, current series, from these headquarters, is hereby further extended to the 20th of June next, and the hours for registration will hereafter be from 9 a. m. till 2 p. m.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Special Orders No. 59.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., June 3, 1867.

* * * * * * * * *

IV. The following telegram having been received at these headquarters, the duties of the board of levee commissioners, appointed in paragraph 3, Special Orders No. 34, current series, are hereby suspended until further instructions, in accordance with the order of the Secretary of War:

OFFICE UNITED STATES MILITARY TELEGRAPH.

The following telegram received at New Orleans 2.30 p. m., June 3, 1867, from War Department, Washington, 12 m., dated June 3, 1867:

Major General P. H. SHERIDAN, *New Orleans:*

Application having been made to the President of the United States, by the governor of Louisiana, and others, for the revocation of your order removing

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the board of levee commissioners, and that the State authorities be permitted to proceed in the execution of the State laws, the President directs that all further proceedings be suspended until further instructions.

You will please report the facts in relation to your order, with reasons for making it.

E. M. STANTON,
Secretary of War.

V. His excellency the governor of Louisiana, J. Madison Wells, having made himself an impediment to the faithful execution of the act of Congress of March 2, 1867, by directly and indirectly impeding the general in command in the execution of the law, is hereby removed from the office of governor of Louisiana and Mr. Thomas J. Durant appointed thereto.

Mr. Durant will be obeyed and respected accordingly.

VI. Many complaints having been made by every class of society in this city of the danger anticipated from yellow fever and the cholera, on account of the uncleanly condition of the streets, the major general commanding, in company with the medical director of this military division, made a thorough inspection of the streets on the 29th ultimo, with the following results:

The main streets of the city were found in a fair condition of cleanliness, but the back streets—the thickly settled portion of the city—were found with an atmosphere poisonous and appalling from neglect on the part of the street commissioner to perform his duty, and efforts having been made heretofore by communications from these headquarters to the city officials to remedy this evil, without avail, the present street commissioner is hereby removed from office, and Mr. William Baker appointed in his place.

His honor the mayor is hereby directed to compel the people to keep their yards and premises in a cleanly condition by the enforcement of the city ordinances through the instrumentality of the police.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Special Orders No. 60.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., June 4, 1867.

* * * * * *

II. Mr. William Baker is hereby relieved as a member of the board of registers of first district, city of New Orleans.

* * * * * *

IV. Henry Sheen is hereby appointed justice of the peace in and for the parish of Bienville, Louisiana, (7th ward.)

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

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[Special Orders No. 61.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., June 5, 1867.

* * * * * *

II. G. C. Benham is hereby appointed register of voters, parish of Carroll Louisiana, in place of John Glavey.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Special Orders No. 64.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., June 8, 1867.

* * * * * *

IV. Reuben A. Blair is hereby appointed register of voters in the parish of Assumption, Louisiana, in place of Joseph Dupaty.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Special Orders No. 65.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., June 10, 1867.

I. In June, 1866, Judges Thomas H. Stribling and W. P. Bacon, strong Union men, were elected judges of the fourth and eleventh judicial districts in western Texas by large majorities. The legislature of the State afterwards passed an act, approved October 11, 1866, to take effect December 31, 1866, abolishing the fourth and eleventh judicial districts of the State by consolidation with other districts, thereby creating districts of such extent as to make it impossible to administer justice within them through the courts. The sole object of this act, as publicly stated by its advocates, having been to get rid of the beforementioned judges on account of their political opinions, regardless of the public interests or wishes, said act will be considered as null and void, and the numbers and boundaries of these judicial districts as they existed before the passage of the act restored. Judges Thomas H. Stribling and W. P. Bacon will resume the duties of judges of the districts to which they were respectively elected.

* * * * * *

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

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[Special Orders No. 67.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., June 12, 1867.

* * * * * *

II. Orestes K. Hawley is hereby appointed register of voters in the parish of Rapides, Louisiana, in place of George Dorman. Paragraph five of Special Orders No. 48, current series from these headquarters, appointing A. E. Mather to the above position, is rescinded.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21*st U. S. Infantry, A. A. A. General.*

[Special Orders No. 69.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., June 15, 1867.

* * * * * *

III. James McCullen, (8th ward,) A. W. Boswell, (9th ward,) and Gilbert Daigre, (10th ward,) are hereby appointed police jurors in and for the parish of East Baton Rouge, Louisiana, to fill existing vacancies.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21*st U. S. Infantry, A. A. A. General.*

[Special Orders No. 70.]

HEADQUARTERS FIFTH MILITARY DISTRICT.
New Orleans, La., June 17, 1867.

* * * * * *

III. The proper civil authorities having stated that it is impossible for them to take charge of Albert M. D. C. Lusk, of the parish of Carroll, State of Louisiana, accused of murder, and that it is impracticable to administer justice in his case through the civil courts, a military commission is hereby ordered to convene in this city, at 10 o'clock a. m., on Thursday, the 20th instant, or as soon thereafter as practicable, for his trial, and for that of such other persons as may be properly brought before it.

DETAIL FOR THE COMMISSION.

Brevet Major General A. Beckwith, commissary subsistence, United States army; Brevet Major General F. Wheaton, lieutenant colonel thirty-ninth infantry; Brevet Colonel M. Maloney, major first infantry; Brevet Lieutenant Colonel D. H. McPhail, paymaster United States army; Brevet Major C B. White, assistant surgeon United States army; Brevet Major M. J. Asch, assist-

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ant surgeon United States army; Brevet Major Leslie Smith, captain first infantry, judge advocate.

* * * * * *

By command of Major General P. H Sheridan:

GEORGE L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Special Orders No. 71.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., June 18, 1867.

I. The very small number of persons applying to be registered in the parish of Orleans at present proves that the registration of that parish is nearly complete. In order, however, to leave no ground for complaint respecting time, the time for registration is hereby extended until the 30th instant. The expense of registering is so great, and ample time having been given, no further extension will be ordered.

* * * * * *

IV. Section 2 of ordinance number 10, adopted by the police jury of Ouachita parish, Louisiana, February 25, 1867, requiring "that the informant shall be liable for costs in cases of prosecution," having the effect to operate against the poorer classes of people, especially colored citizens, and being at variance with the laws of the State of Louisiana, is hereby declared null and void.

By command of Major General P. H. Sheridan:

GEORGE L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Special Orders No. 72.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., June 19, 1867.

* * * * * *

VI. It having been officially reported to these headquarters that an atrociously cold-blooded and deliberate murder was committed in Jefferson, Texas, and that deputy sheriff John L. Whitmore, and constable L. H. Wright, of that place, each absolutely refused to execute a warrant legally issued for the arrest of the murderer, said officers are hereby removed from their respective offices. The commanding officer at Jefferson will, if possible, cause the arrest of the murderer.

By command of Major General P. H. Sheridan:

GEORGE L. HARTSUFF,
Assistant Adjutant General.

Official:

GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

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[Special Orders No. 73.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., June 20, 1867.

* * * * * *

II. William Bishop is appointed a register of voters for the parish of Jackson, *vice* Kent M. Dowden, who is hereby relieved.

III. Mr. John Chenville is hereby relieved as a member of the b oard of registers for the parish of De Soto.

IV. The resignation of Mr. A. M. Miller, member of the board of registers of Caddo parish, is hereby accepted.

V. Mr. Thomas S. Bacon is hereby relieved as a memberiof the board of registers for the parish of Winn.

VI. Mr. J. D. Rich is hereby relieved as a member of the board of registers for the parish of Lafourche, Louisiana.

* * * * * *

IX. The latest returns from the boards of registers throughout the State of Louisiana indicate that the registration of the State will be complete by the 30th instant, the limit of time originally fixed for that purpose. In order, however, to leave no reasonable ground for complaint in regard to the time for registration, that time is hereby extended, in all the parishes of the State, except that of Orleans, to July 15th, after which date no further extension will be given.

By command of Major General P. H. Sheridan:

GEORGE L. HARTSUFF,
Assistant Adjutant General.

Official: GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Special Orders No. 75.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., June 22, 1867.

* * * * * *

II. J. T. Burgess is hereby appointed a member of the board of registers, parish of Caddo, Louisiana, *vice* Miller, relieved.

* * * * * *

By command of Major General P. H. Sheridan:

GEORGE L. HARTSUFF,
Assistant Adjutant General.

Official: GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A. General.

[Special Orders No. 76.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., June 24, 1867.

* * * * * *

IV. The following appointments of registers of voters in this State are hereby announced:

Mr. Bernard Frisch is appointed in the parish of De Soto, *vice* Cheneville, relieved.

Mr. C. J. MacLellan is appointed in the parish of Winn, *vice* Bacon, relieved.

Mr. George P. Fernald is appointed in the parish of Lafourche, *vice* Rich, relieved.

* * * * * *

By command of Major General P. H. Sherican:

GEORGE L. HARTSUFF,
Assistant Adjutant General.

Official: GEORGE LEE,
First Lieut. 21st U. S. Infantry, A. A. A General.

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[Special Orders No. 78]

HEADQUARTERS FIFTH MILITARY DISTRICT,
New Orleans, La., June 26, 1867.

* * * * * *

II. On the recommendation of the governor of the State of Louisiana, the following persons are hereby appointed members of the town council of Grand Coteau, parish of St Landry, Louisiana, to fill existing vacancies :

Eugene Petitin, Napoleon Robin, Andre Meche, Alexander H. Castille, Theodule Richard, James G. Campbell, John Higgendon.

By command of Major General P. H. Sheridan:

GEO. L. HARTSUFF,
Assistant Adjutant General.

Official:

THOS. W. C. MOORE,
Captain Fortieth U. S. Infantry, A. D. C.

WAR DEPARTMENT,
Washington City, July 11, 1867.

SIR: I have the honor to submit herewith an estimate, by the Paymaster General and Adjutant General, of the amount of appropriation required to cover expenses of the reconstruction acts of Congress.

This estimate is compiled from the separate estimates made out by, or under the direction and approval of the several district commanders, and amounts in the aggregate to the sum of $1,648,277, and may be increased largely by an extension of the time during which the registry boards continue under pay.

I would respectfully recommend that application be made to Congress for an adequate appropriation, and submit the accompanying estimate of the officers named, as the nearest approximation of the required sum that is attainable.

Your obedient servant,

EDWIN M. STANTON,
Secretary of War.

The PRESIDENT.

WAR DEPARTMENT, PAYMASTER GENERAL'S OFFICE,
Washington, July 9, 1867.

SIR: The undersigned, to whom the subject has been referred, have the honor to report that a further appropriation of one million six hundred and forty-eight thousand two hundred and seventy-seven dollars ($1,648,277) would appear from the estimates received to be possibly necessary to complete the work of reconstruction in the rebel States, under the acts of Congress of March 2d and 23d, 1867; the original appropriation for this object ($500,000, by joint resolution of March 30, 1867) having been distributed to the respective districts as follows:

First district	$69, 444 44
Second district	69, 444 45
Third district	97, 222 22
Fourth district	97, 222 22
Fifth district	166, 666 67
	500, 000 00

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It appears by the estimates transmitted that a further large amount is requisite, as follows:

First district.—Estimates for further sum necessary to complete.....	$80,000
Second district.—Estimates for further sum necessary to complete...	461,805
Third district.—Estimates for further sum necessary to complete....	27,778
Fourth district.—Estimates to July 1, in addition to the amount ($97,222 22) already supplied.....	245,539
Fifth district.—Estimates for one month, dated April 17, for $243,420, of which $166,666 67 have already been supplied, leaving a remainder called for.....	76,753
Total.....	891,875

If General Ord's (fourth district) registrars, estimated for to the 1st of July only, should be continued on duty under pay to the end of July, then there should be added to the above the expenses for that month, at the rates of compensation stated in his estimate, the sum of $159,781, and if continued to the end of August, double that sum, $319,562.

The same likewise of General Sheridan's district, (five,) whose estimate received is for one month only. If the monthly expenses continue for a period of two months at the rates stated, they will amount to the further sum of $218,420. If for three months, to $436,840.

These figures give the sum of $1,648,277 as possibly required, but dependent upon contingencies which cannot now be determined.

We have the honor to be, very respectfully, your obedient servants,

B. W. BRICE,
Paymaster General.
E. D. TOWNSEND,
Assistant Adjutant General.

Hon. E. M. STANTON,
Secretary of War.

Report of the Attorney General in answer to the resolution of the Senate of the 3d July, 1867.

ATTORNEY GENERAL'S OFFICE,
Washington, July 6, 1867.

SIR: I have received a copy of the resolution of the Senate of the 3d instant, referred to this office, for report of copies of all opinions given by the Attorney General to the President touching the construction and interpretation of the reconstruction acts of March 2 and March 23, 1867.

I have the honor to report that the two opinions, copies of which are herewith sent, are all the opinions from this office which come within the purview of the resolution.

I have the honor to be, with great respect,

HENRY STANBERY,
Attorney General.

The PRESIDENT.

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OPINION OF ATTORNEY GENERAL STANBERY, UNDER THE RECONSTRUCTION LAWS, INTERPRETING THE STATUTORY CLAUSES HAVING REFERENCE TO ELIGIBILITY, UNDER THE PROVISIONAL GOVERNMENTS OF THE SOUTHERN STATES, FOR SUFFRAGE AND OFFICE, AND RESERVING FOR FURTHER CONSIDERATION QUESTIONS UNDER OTHER PROVISIONS.

ATTORNEY GENERAL'S OFFICE,
May 24, 1867.

SIR: I have the honor to state my opinion upon the questions arising under the act of March 2, 1867, entitled "An act to provide for the more efficient government of the rebel States," and the act of March 23, 1867, entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,'" upon which questions the military commanders of the districts in which those States are comprised have asked your instructions.

The first and most important of these questions may be thus stated: Who are entitled to vote and who are disqualified from voting at the elections provided for or coming within the purview of these acts?

The first provision upon this subject is to be found in the fifth section of the original act, and declares the qualifications and disqualifications of the voters for the election to be held for delegates to the proposed constitutional convention in each State, and for the election to be held for the ratification of the constitution that may be framed by such convention. That section provides that the delegates to such convention shall be "elected by the male citizens of said State twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion or felony at common law," and that the same qualifications so required for the election of the delegates shall also be required upon the election for ratification. The *proviso* to this section also excludes from the right to vote for delegates to the convention every person excluded from the privilege of holding office by an amendment to the Constitution of the United States proposed by the thirty-ninth Congress, and known as Article XIV.

The sixth section provides "That until the people of said rebel States shall be, by law, admitted to representation in the Congress of the United States, any civil governments which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same; and in all elections to any office under such provisional governments all persons shall be entitled to vote, and none others, who are entitled to vote under the provisions of the fifth section of this act; and no person shall be eligible to any office under any such provisional governments who would be disqualified from holding office under the provisions of the third article" [section] "of said constitutional amendment."

It is to be observed here that the qualifications of a voter are, by the fifth section, limited to the election of delegates to the convention, and to the question whether such convention shall or shall not be held, and that no qualification is declared for a delegate so to be elected; but by the sixth section the same qualifications as to a voter are required in all elections to any office under the existing provisional governments during their continuance, and, as to *eligibility* at such elections, certain classes are excluded.

The first section of the supplemental act provides that "the commanding general in each district * * * shall cause a registration to be made of the male citizens of the United States, twenty-one years of age and upwards, residents in each county or parish in the State or States included in his district, which registration shall include only those persons who are qualified to vote for

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delegates" by the original act. The person offering himself for registration is also required to take an oath, which, for convenience, I now divide into paragraphs or sections, preserving as near as may be the language of the act. He must swear, or affirm, as follows:

1. That he is a citizen of the State, and has resided in said State for months next preceding the day when he takes the oath, and that he now resides in the county of , or in the parish of , in said State.

2. That he is twenty-one years old.

3. That he has not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any State, or of the United States.

4. That he has never been a member of any State legislature, nor held any executive or judicial office in any State, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof.

5 That he has never taken an oath as a member of the Congress of the United States, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof.

6. That he will faithfully support the Constitution and obey the laws of the United States, and will, to the best of his ability, encourage others so to do.

The second section of this act provides that after the completion of this registration in any State, and after at least thirty days' public notice of the time and places, which the commanding general shall appoint and direct, an election shall be held for delegates to a convention; and a rule is given to fix the number of the delegates to be elected and the appointment of these delegates in the proper civil subdivisions, giving to each subdivision representation in the ratio of the registered voters.

The third section provides that at the election for delegates the registered voters shall vote for or against the convention.

The fourth section provides for the election to ratify the constitution that may be framed by the delegates, and the right to vote at this election is confined to the persons registered.

The sixth section provides that all elections in the States mentioned in the said original act shall, during the operation of such act, be by ballot, and all officers making the said registration of voters and conducting said election shall, before entering upon the discharge of their duties, take an oath prescribed by the act of July 2, 1862, entitled "An act to prescribe an oath of office."

The first consideration which requires my attention upon the question as to the right to vote, arises upon the registration of voters. The question of qualification or disqualification is fixed by the registration. No power is given to any other board or any other authority, after the registration is completed, to change the registry. The persons whose names are admitted to registration are entitled to vote, subject to the limitation hereinafter mentioned, and none others. This registration must be completed before the first day of September, 1867. The functions of the board as a board of registration cannot be extended beyond that fixed time; but after that the duties which remain to be performed by the officers composing this board are limited only to holding and superintending the elections and making the proper returns to the commanding general.

This brings us to the direct question, Who are entitled to registration?

1. As to citizenship and residence. No person is entitled to vote who shall not be resident in the State for one year previous to the day of election. It is not necessary that this previous residence for a year should exist at the time the

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person applies for registration. A person in all other respects entitled to vote is entitled to registration, although he has not, at that time, been a resident of the State for a full year; for we find in the supplemental act that the oath as to residence does not require the applicant to swear that he has then been a resident for a year, but only requires him to state the number of months of his residence, contemplating a period less than, as well as a full term of, twelve months. Therefore, as to such a person, so registered, if it happen at any election subsequently to be held, that the time of residence, counting from the day of election, does not cover an entire year, he cannot vote at such election; for this supplemental act does not, as to residence, change the provisions of the original act, as it is expressly provided by it, as to registration, that it shall include only those who are qualified to vote by the original act. To carry out the purposes of the law in this respect as to residence, the board of registration should note opposite the name of the person whose residence has not extended to the full term the exact time of his residence.

As to citizenship. The qualification stated in the original act is citizenship of the State; but by the first clause of the first section in the supplemental act, the registration is to be made of the male citizens of the United States; and as to the oath, the applicant is only required to swear that he is a citizen of the State.

I am of opinion that the phrase *citizen of the State*, as used in the oath, is intended to include only such persons as are citizens of the United States and citizens of the State; and that an alien who has not been made a citizen of the United States cannot safely take the oath. But, as the board of registration have only authority to administer the prescribed oath, they cannot require any further oath or proof as to citizenship, and if an alien, not made a citizen of the United States, takes this oath, he takes it at his peril, and is subject to prosecution for perjury.

2. As to age. No one is entitled to registration who is not at least twenty-one years of age on the day that he applies for registration. In this respect qualification as to age differs from the qualification as to residence, and the fact that majority must exist at the date of registration has relation to the day of registration, and not to the day of the subsequent election.

3. Next as to disfranchisement. I shall consider the various clauses of disfranchisement according to the order and division into sections hereinbefore stated. And, first, as to the general clause declaring disfranchisement.

The fifth section of the original act denies the right to vote to "such as may be disfranchised for participation in the rebellion or for felony at common law." The words here used, "in the rebellion," must be taken to mean the recent rebellion; but the supplemental act enlarges the disqualification, and requires the applicant to swear that he has not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any State or of the United States.

What, then, works a disfranchisement under these provisions? Whether we consider this disability as arising out of participation in the rebellion or the commission of a felony, the mere fact of such participation or of the commission of the felonious offence does not of itself work a disfranchisement. It must be ascertained by the judgment of a court, or by a legislative act passed by competent authority. Disfranchisement for felony committed against the laws of a State or of the United States, consequent on a conviction in the courts either of the United States or of a State, or declared by the laws of either, would be fatal under these acts.

I am not aware of any law of the United States which works disfranchisement as to the right of suffrage, by force of the act itself, nor does such a consequence follow from the conviction for treason, or conspiracy to commit treason, or for any other act of participation in rebellion. The provision in the Constitution of the United States, as to treason against the United States, does

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not declare what shall be the punishment on conviction of treason. That is left for Congress, with the limitation that corruption of blood shall not follow as a consequence, or any forfeiture, except during the life of the party. Congress, in the exercise of its power to declare the punishment, has limited such punishment, as a consequence of conviction, to the penalty of death, or imprisonment and the manumission of slaves owned by the party, and to disqualification from holding any office under the United States. I am not advised of any statute now in force in either of these ten States, except perhaps Virginia, which declares disfranchisement as to the right of suffrage by force of the act itself.

4. 5. The fourth and fifth sections may be considered together.

The party applying for registration must swear "that I have never been a member of any State legislature, nor held any executive or judicial office in any State, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I have never taken an oath as a member of the Congress of the United States, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof." These clauses of the oath, in effect, extend the disfranchisement beyond the provisions of the original act and the prior clauses of the oath itself, in the important particular that neither a conviction nor judgment of a court, nor an express legislative enactment, is required to establish the fact of disfranchisement. In legal parlance, disfranchisement under these clauses of the oath results from matters *in pais*. But, in one respect, these clauses limit the generality of the original act as to disfranchisement. The original act contemplates disfranchisement arising from participation in a rebellion; whereas disfranchisement under these clauses does not arise from participation in rebellion alone, but other elements must concur; that is to say, the holding of certain offices, or the taking an official oath by certain officers, and afterwards participating in rebellion against the United States.

The consideration of these two clauses leads to two distinct subjects-matter of inquiry:

First. What offices or officers are comprehended?

Second. What acts amount to engaging in insurrection or rebellion against the United States, or giving aid or comfort to the enemies thereof?

I will first consider what offices or officers are comprehended.

As to some officers there is no room for doubt. Members of a State legislature or members of Congress are clearly enough designated.

The question might, however, arise whether a convention held in a State for the framing or amendment of its constitution would answer to the description of a State legislature within the meaning of this act. Such a convention, although it is clothed with legislative power, cannot properly be denominated a State legislature. And in the acts now under consideration, a convention and a legislature are expressly distinguished from each other, for they require the constitution to be framed by a convention, and they require the legislature of the same State to adopt the constitutional amendment. When, then, in the same acts they again use the phrase "legislature of the State," they must be understood to use it in the same sense, and as distinguished from a constitutional convention. But as to those legislative bodies which passed what are called ordinances of secession, by whatever name they may have been called, I am of opinion that their members are properly comprehended within this disqualifying clause, for I can imagine no official legislative position in which the duty of allegiance was more distinctly violated.

The next and more difficult inquiry is, who is to be considered an officer of the United States, or an executive or judicial officer of any State within the meaning of these clauses? Various classes of officers are here intended, State

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officers and federal officers, and executive or judicial officers. No legislative officer is mentioned except a member of a State legislature or a member of Congress. The descriptions used as to other officers are, as to State officers, that they must be judicial or executive, and as to a federal officer the terms executive or judicial are not expressed. He is described simply as an officer of the United States.

It has been shown that federal officers and State officers are classified separately in the clauses of the act under consideration. I deem it profitable and conducive to a clear order to follow this classification. I shall accordingly first consider what State officers are included in the terms "executive or judicial." This phrase is twice used in these clauses, with the superadded description "*in* any State" in the first clause, and "*of* any State" in the second clause. I think the controlling term of description, if there is any repugnancy in the terms, must be taken to be the last, for that is used in the most comprehensive clause, as to the very officers named in the first clause, and to others. Besides, it is the same term of description used in the act of Congress of 1789, declaring what State officers are required to take the oath to support the Constitution of the United States, and in the 3d section of the constitutional amendment. Both use the same terms of description, "executive and judicial officers *of a State.*"

The terms are so general and indefinite that they fail to express with sufficient certainty a designation of the persons intended to be reached. It is to be regretted, in a matter of so much importance, that the rule of designation adoptd as to members of Congress and of a State legislature had not been followed up, or, if that were found impracticable, that some more definite general rules had not been declared. The uncertainty becomes manifest in the application of the law, and this uncertainty necessitates construction. The necessity for construction, which arises from the generality of the law, cannot be better stated than in the language of Plowden: "Though the words be general, they are to be reduced to a particularity by exposition, made according to the intent of the act; those statutes which comprehend all things in the letter, the sages of the law have extended but to some things; those which generally prohibit all people from doing such an act, they have interpreted to permit some persons to do it, and those which include every person in the letter, they have adjudged to reach some persons only, all founded upon the intent; collected by considering the cause and necessity of the act, and comparing one part with another, and sometimes by foreign circumstances."

I deem it proper here to fix some clear ideas of the general intent of these acts, and by what rule of construction, strict or liberal, that intent may best be arrived at. The intent, as expressed, is to enable the people of each of these States to frame a constitution for the State by the exercise of the right of suffrage. There are clauses of the act giving the right by general terms of description to the people generally, and especially to those who have never enjoyed the right before. There are other clauses of the act which, by general terms, take away this right of suffrage from those who have always enjoyed it. The rule of construction as to the clauses which give the right must be liberal, and as to them the general terms are not to be restricted; but as to those clauses which derogate from the existing right, the rule of construction must be strict, that none should be excluded who are not clearly within the letter and intent.

1. I begin then with the inquiry whether officers of the militia of a State are embraced within these terms of description, and I have no doubt that they are not. Certainly Congress, as to the officers of a State, was not content to use the term at large and without qualification, but, as we see, intended to qualify the general term. If the purpose was to designate military officers, the usual words to manifest that intent would have been adopted, and the terms would have been the *judicial* and *executive*, the *civil* or *military* officers of the State. Accordingly we find when that was the purpose, as we see it was, in the third

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section of the constitutional amendment, known as Article XIV, Congress expressed that purpose very clearly. That section provides that "No person shall be a senator or representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof."

This third section is expressly referred to more than once in these acts. It is made, in fact, a part of these acts. Its language is followed, word for word, in these disqualifying clauses, as far as was possible, except in the particular in which one is made to apply to eligibility and the other to the right to vote. When, therefore, we find that Congress, in declaring what persons shall be disfranchised from holding any office, expressly includes military as well as civil officers, as in the third section of the amendment, and in providing what persons shall be disfranchised from voting who held any office, omit to mention military officers, we cannot escape the conclusion that military officers were not here within their contemplation. It is impossible to imagine a case in which the construction from laws *in pari materia* has a more cogent application; for it is evident here that the law-maker, in framing the disqualifications of the voter, took special cognizance of the third section of the amendment, and weighed it word by word, following it literally for the most part, and rejecting deliberately the very word intended to embrace a military officer.

It must be borne in mind that we are here considering the class of military officers who were such prior to the rebellion, when the office was lawful, and who were known as officers of the militia—not that class who became military officers during the rebellion. As to this last class, they all come under that other clause of disqualification which applies to participation in the rebellion.

2. Having the inquiry thus circumscribed to civil officers, the question recurs, what civil officers are to be brought within the terms "executive or judicial officers of a State?" They clearly include, so far as executive officers are concerned, all such officers as are generally known by the proper description of State officers or officers of State. In one sense, and in a popular sense, the description executive officers of a State is applicable to a well-known class: the governor, lieutenant governor, State auditor, treasurer, secretary, and State officials proper, who exercise executive functions at the seat of government. I am not prepared to say that only these proper State officials come within this term of description; nor am I prepared, as to judicial officers of a State, to limit the description to judges or courts whose jurisdiction extends over the entire State. I must content myself in saying of these officers, executive or judicial, that they are clearly within the meaning of the law.

Now, changing the inquiry from an affirmative to a negative process: Such officers as usually pass under the description *municipal* do not come within the purview of the act, such as officers of cities, towns, villages, and subordinate municipal divisions, whether their functions are executive or judicial, or, as is sometimes the case, where the same officer acts in both capacities.

Outside of these two representative classes, the first of which is clearly within, and the last of which is clearly without, the purview of these clauses, we find in each of these States a host of officers whose *status* is in some way to be determined. It is impossible here to proceed by way of enumeration, and to distinguish by name all those who are included and all those who are excluded. All that can be done is to establish some fixed rules. I feel the necessity of circumspection here in saying who are included within the disfranchisement rather than in saying who are not included; for where there is doubt, according to the rule of construction which has been referred to, that doubt must be solved in favor of, rather than against, the right of the voter.

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The exclusion is all-comprehensive as to time, and applies not only to those who were in office when the rebellion commenced, but to those who held the prohibited offices at any previous time, although they may have ceased to hold such office an indefinite number of years prior to the rebellion. It is founded on the idea of a breach of official trust due to the State as the author or donor of the trust. It is founded on the idea of a breach of trust, not arising merely from allegiance as a citizen, but duty to the State in a direct official relation to that State, and through that to the federal government. So far as this act designates by name the persons who violated such a trust, it is that class to whose keeping the trust is especially confided; that is to say, the persons who were clothed with the legislative power. Where, as in this instance, there is a purpose of exclusion on a common ground, and one class is designated as coming within the purpose, and other classes are left indefinite and only to be ascertained by construction, it is allowable to find the indefinite class by the rule of assimilation.

We see, then, in this law a purpose of exclusion as to the three great departments of a State, legislative, judicial, and executive. We see, further, that as to the legislative department, made up of a legislative body, composed of members and various officers appertaining to such a body as a legislature, the exclusion is only of the higher functionaries of that body, *the members*, and is not carried to its subordinate officers. The terms of exclusion are not the members and officers of a State legislature, but simply the *members* of a State legislature. As, therefore, the exclusion in the legislative department has effect only upon the highest class in that department, it is safe to say the same policy of exclusion attaches rather to such officers as exercised functions of important trust in the executive and judicial departments than to those whose functions and duties are merely limited and subordinate. I have already called attention to the comprehensiveness of these exclusions as to time. Now, to declare them equally comprehensive as to persons, and to say that they embrace all officers, large and small, coming in any sense within the description of executive or judicial officers, who have at any time during their lives held any one of these offices, would have this inevitable result, that in the formation of the constitution for a State by the agency of its own people, a large proportion, perhaps a majority, of the most intelligent and capable of the people would be excluded.

There is no part of my duty, in attempting to give construction to these laws, in which I find myself involved in such painful uncertainty as in determining what officers outside of the classes already designated come within the just range of exclusion. I have said that, in addition to the class of officers who clearly come within the terms of the act as *judicial* and *executive* officers of the State, and to those classes which comprehend militia officers and municipal officers, who clearly are not within the terms of the act, there remain a vast body of officers whose *status* is in some way to be defined.

These are known in popular language by such terms of description as county, township, precinct officers. Their name is legion. Their functions and duties are for the most part strictly local. Some of them, such as sheriffs and justices of the county courts, have jurisdiction over the entire county. Others are restricted to the smallest civil subdivisions. I have directed abstracts to be prepared for each of these States, which will exhibit all these officers and the duties which appertain to them, and the form of oath required.

I must reserve for further consideration, after the abstracts are made, the question whether all of them, or, if not all, what classes of these officers, come within the disqualification. As to all other executive or judicial officers who are not in popular language characterized as county officers, I incline to consider them as coming under the description of executive and judicial officers of a State within the meaning of these laws.

I deem it proper here, in reference to that class of officers, judicial or execu-

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tive, who are, by the rule I have laid down, brought within the operation of disfranchisement, to distinguish a class whose duties are not localized, who stand in direct relation to the State, and who, in my opinion, cannot properly be designated as executive or judicial officers of a State. I mean that class of persons who exercise special public duties rather in the nature of occasional employments than general and continuing official duty. This distinction between office and employment, and between an officer of a State and an agent of a State, is well established. *Chief Justice Tilghman, in* 3 *Serg. and Rawle*, 149, recognizes it in the case of commissioners appointed to lay out roads and canals and other works of public improvement. The question arose upon a section in the constitution of Pennsylvania, which provided "that the governor shall appoint all officers whose offices are established by this constitution, or shall be established by law, and whose appointments are not herein otherwise provided for." The Chief Justice says, "It has never been ascertained, nor is it easy to ascertain, to what offices this power of appointment extends. I speak of offices created by law *since* the making of the constitution. The word *office* is of very vague and indefinite import. Everything concerning the administration of justice, or the *general interests of society*, may be supposed to be within the meaning of the constitution, especially if fees or emoluments are annexed to the office. But there are matters of temporary and local concern, which, although comprehended in the term *office*, have not been thought to be embraced by the constitution. And when offices of that kind have been created, the legislature has sometimes made the appointment in the law which created them, sometimes given the appointment to others than the governor, and sometimes given the power of removal to others, although the appointment was left to the governor. The officers of whom I am speaking are often described in acts of assembly by the name of *commissioners*—such, for instance, as are employed in the laying out of roads and canals and other works of a public nature. Yet all these perform a *duty*, or, in other words, exercise *an office*."

I cannot enumerate all the employments under State authority which, in my opinion, work no disfranchisement. I will name some by way of illustration, viz: boards of commissioners of public works, directors of State asylums, visitors of State universities, directors of State penitentiaries, State directors of banks or other corporations, special commissioners or agents appointed by the governor or other State authority to perform special duties, as examiners of banks, notaries public, and commissioners to take acknowledgment of deeds.

The rule laid down, and these illustrations, will perhaps be sufficient to determine who come within its operation.

The next disqualifying clause is founded on the oath of office. The oath as incidental to the office is not mentioned in the first disqualifying clause, but the office alone. But, in the second clause, the oath is made to enter as a necessary element in order to work disfranchisement, and it is applied to the same classes of officers named in the first clause, and also to others not named in the first clause, that is, to officers of the United States. It is an oath to support the Constitution of the United States, and it is clearly provided by this clause that if this oath has been taken by a member of a State legislature, or by an executive or judicial officer of any State, then such person violating that oath and engaging in insurrection shall be disfranchised. There is some obscurity in these clauses, and room for doubt whether disqualification under the first clause would arise in the case of a member of a State legislature or any executive or judicial officer of any State who had not taken an oath to support the Constitution of the United States. I incline to the opinion that this oath is put as an essential thing, the breach of which by insurrection against the United States violates the trust imposed by it upon the officer. But this clause, so far as the executive or judicial officers of a State are concerned, does not enlarge the class subject to disfranchisement. The officer breaking the oath which works dis-

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franchisement must also be a judicial or executive officer of a State, according to the rule hereinbefore established.

I do not apprehend any practical question will arise here, for, by the Constitution of the United States, this oath is required to be taken by "the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States," and in these ten States the same oath was required as to members of the legislature and the executive and judicial officers of the State.

This brings me to the question, Who is to be considered "an officer of the United States," within the meaning of the clause under consideration? Here the term officer is used in its most general sense, and without any qualification, as legislative, or executive, or judicial; and, I think, as here used, it was intended to comprehend military as well as civil officers of the United States who had taken the prescribed oath. Inasmuch as the violation of the official oath and the official trust has relation to fealty to the United States, which is broken by rebellion against the United States, the reason is apparent for including all officers of the United States, and for making the disfranchisement more general and comprehensive as to them, standing, as they do, in more direct relation and trust to the United States than the officers of a State.

I now come to consider what is the meaning and scope of the disqualification arising upon that part of the oath which requires the person to state that he has not "engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof." I must here repeat what has been said before, that to work disqualification two elements must concur:

First. Holding the designated office, State or federal, accompanied by an official oath to support the Constitution of the United States; and,

Second. Engaging in rebellion against the United States, or giving aid or comfort to its enemies. Both these must not only concur, but they must concur in the order of time mentioned. First, the office and the oath, and "afterwards" engaging in rebellion or giving aid or comfort. A person who has held an office within the meaning of this law, and has taken the official oath, and who has not *afterwards* participated in a rebellion, may very safely take this oath; and so, too, the person who has fully participated in the rebellion, but has not, prior thereto, held an office and taken the official oath, may, with equal safety, take this oath.

My duty here is simply one of construction. I do not deem it proper to enter upon any question of the constitutionality of this part of the act. Taking it as granted, for the purpose of construction, that Congress has a right to impose such an oath, it is not only allowable, but imperative, that I keep in view its essential characteristics.

It is something more than a legislative act in derogation of an existing right. It is in effect a law which takes away an existing right as a consequence of acts done at a prior time, and which, at the time they were done, entailed no such consequences. In the late cases before the Supreme Court of the United States upon the test oath prescribed by an act of Congress to be taken by lawyers, by which the exclusion from the right to practice their profession was made to arise upon prior participation in the rebellion, the court say:

"As the oath prescribed cannot be taken by these parties, the act, as against them, operates as a legislative decree of perpetual exclusion. And exclusion from any of the professions, or any of the ordinary avocations of life, for past conduct, can be regarded in no other light than as punishment for such conduct. The exaction of the oath is the mode provided for ascertaining the parties upon whom the act is intended to operate, and, instead of lessening, increases its objectionable character. All enactments of this kind partake of the nature of bills of pains and penalties." The court further say: "The deprivation of any rights, civil or political, previously enjoyed, may be punishment, the circumstances attending and the causes of the deprivation determining this fact."

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The characteristics of this clause of the act are, therefore, retrospective, penal, and punitive. Of course there can be no question as to the rule of construction which is here to be applied. Those who are expressly brought within its operation cannot be saved from its operation. Where, from the generality of terms of description, or for any other reason, a reasonable doubt arises, that doubt is to be resolved against the operation of the law and in favor of the voter.

What acts, then, within the meaning of this law, make a party guilty of engaging in insurrection or rebellion against the United States, or of giving aid or comfort to the enemies thereof? The language here comprehends, not only the late rebellion, but every past rebellion or insurrection which has happened in the United States. So, too, it comprehends every foreign war in which the United States has, at any time, been engaged. The first part of the sentence covers the case of domestic war existing in form of rebellion or insurrection, whilst the last part applies to foreign war. The words, *giving aid and comfort* to the *enemies* of the United States, are the same used in the constitutional definition of treason, and the enemies there meant must be taken to be foreign enemies. These words, originally found in the early statutes of England against treason, have received that settled interpretation in the English and American courts. They are used in this act without any qualification, and we give them full force and application when they are made to apply to adherence or giving aid and comfort to foreign enemies. Such an act, as to the breach of the oath, or duty of allegiance, stands upon the same policy of disqualification as engaging in rebellion or civil war. A person, therefore, who gave aid and comfort to our enemies in the war with Great Britain of 1812, and in the war with Mexico in 1847, would, in that particular, come within this clause. In laying down this rule, I do not forget that, for certain purposes and in a certain sense, every citizen in the rebel States, during the late rebellion, is to be considered a public enemy; as in respect to the liability of his property to capture as prize of war, and in respect to various acts of Congress passed during the rebellion, which, as to property, declare its liability to capture, forfeiture, or confiscation, when used in aid of the late rebellion. But wherever, in any of these acts of Congress, these terms, *aid and comfort*, are used, in any other than the commonly received acceptation, some qualification or description is added to make them apply to the rebellion. Nevertheless, although I strongly incline to think that the *aid and comfort* here mentioned should strictly be confined to its acknowledged legal interpretation, I am not quite prepared to say that Congress may not have used it as applicable to the rebellion. I shall, therefore, allow it due weight in the next inquiry, in giving construction to the clause now to be considered.

We are now to inquire what is meant by engaging in insurrection or rebellion against the United States. The force of the term to *engage* carries the idea of active rather than passive conduct, and of voluntary rather than compulsory action. Take, as an instance, a rebel soldier compelled to service by force of conscription. Take, as another instance, the case of a slave who, by the command of his master, or by military order, has served in the ranks or aided in the construction of military works. It would be an abuse of language to hold that in these instances the parties have "engaged" in rebellion within the meaning of that word as used in this law. But whilst, in my opinion, a conscript or slave, forced into the ranks or other military service, is not included, it does not follow that other classes than those who actually levied war and voluntarily joined the ranks of the rebels are to be excluded, taking it to be clear, that in the sense of this law persons may have engaged in rebellion without having actually levied war or taken arms. All those who in legislative or other official capacity were engaged in the furtherance of the common unlawful purpose, or persons who, in their individual capacity, have done any overt act for the purpose of promoting the rebellion, may well be said, in the meaning of this

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law, to have engaged in rebellion. All persons who, during the rebellion, acted in an official capacity where the duties of the office necessarily had relation to the support of the rebellion, such as members of rebel legislatures and of the rebel congress, and rebel conventions, diplomatic agents of the rebel confederacy, or such other officials whose duties more especially appertained to the support of the rebel cause, must be held to come within the terms of exclusion. Officers in those rebel States who during the rebellion discharged official duties not incident to war, but in the preservation of order and the administration of law, are not to be considered as thereby engaging in rebellion. The interests of humanity require such officers for the performance of such official conduct in time of war or insurrection as well as in time of peace, and the performance of such duties can never be considered as criminal. I cannot bring myself to the conclusion that Congress could have meant that such purely civil and necessary offices involved the incumbent in the guilt of insurrection. Nothing but the most cogent language, such as was used in the test oath for lawyers, could manifest such a purpose. The Supreme Court in construing that test oath, and in reference to the clause to which I have alluded, uses this language:

"The third clause applies to the seeking, acceptance, or exercise, not only of offices created for the purpose of more effectually carrying on hostilities, but also of any of those offices which are required in every community, whether in peace or war, for the administration of justice and the preservation of order."

I find no such purpose in the use of any of the terms of the act now under consideration.

I am accordingly of opinion that the holding of a simple judicial office, or other executive offices or public employments as are of a purely civil character, such as county offices, municipal offices, and all others of a like nature, which were not "created for the purpose of more effectually carrying on hostilities," and which did not involve the performance of duties expressly in furtherance of the rebellion, do not, within the meaning of this part of the oath, fix on the incumbent the guilt of engaging in the rebellion.

So much for official participation. I now recur to what amounts to individual participation in the rebellion. In the attempt to arrive at the classes of persons, or of acts intended to be comprehended in the matter of engaging in rebellion, we must have due regard to the subject-matter. Undoubtedly, although every rebellion against the United States is comprehended, it is the late rebellion which almost, if not altogether, can be said to be the proper subject-matter—a rebellion which extended over eleven States of the Union, involving, more or less, millions of their people, continuing for more than four years, and maintained by a vast military authority, which, as to all these people for a time, and as to most of them during its continuance, excluded them from all protection under the lawful government. The obligations of allegiance, when thus separated from the corresponding right of protection, and the breach of that allegiance, are necessarily modified under such circumstances. The obligation is less stringent, and a breach of that obligation less reprehensible, than in cases of temporary or local insurrection. Nor must we forget that throughout these rebel States there were large classes of their population more or less opposed to the rebellious movement, and who were yet more or less necessarily involved in its support. I have already said that the language used in this act as to participation carries the idea of voluntary participation; and I am satisfied that these considerations, growing out of the nature of the rebellion, induced Congress to use the word "engage" in the sense of voluntary participation.

When an insurrection by its continuance and power takes the form of a *de facto* government, and prescribes and enforces laws over people within its territory, individual rights and obligations undergo an inevitable modification, and the rightful and displaced authority, when it again comes into place, must, in a measure, accommodate its action to circumstances, and consider many things as right-

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fully done which in a mere insurrection would have no color of legality. This principle is recognized by all civilized nations—has been especially enforced in England by statute, and by the decisions of courts as early as the reign of Henry the Seventh. Obedience to the *de facto* government established under a usurping monarch has been held not to involve a subject in the guilt of treason to the lawful king. Giving due weight to these well established principles, I proceed with the inquiry.

I am of opinion that some direct overt act, done with the intent to further the rebellion, is necessary to bring the party within the purview and meaning of this law. Merely disloyal sentiments or expressions are not sufficient. The person applying for registration is not required to clear himself from the taint of disloyalty. The meaning of Congress here becomes yet more evident when we look at the last clause of the prescribed oath. He is required to swear that he "will faithfully support the Constitution and obey the laws of the United States, and will, to the best of [his] ability, encourage others so to do." This part of the oath is not exculpatory, but promissory. It looks to the future, and not to the past, and the purpose is here manifest to omit, as to the right to vote, the disqualification arising from past disloyalty, put in the test oath as a disqualification from the right to exercise office. Mere acts of common humanity and charity cannot be considered as involving the party in participation in the rebellion. So, too, are forced contributions by the rebel authorities, or the compulsory payment of taxes in aid of the rebel cause. But wherever an act is done voluntarily in aid of the rebel cause, it would involve the person, and it must work disqualification under this law. Voluntary contributions in furtherance of the rebellion or subscriptions to the rebel loans, and even organized contributions of food or clothing, or necessary supplies, except of a strictly sanitary character, are to be classed with acts which disqualify.

THE BOARD OF REGISTRATION.

The original act contains no provision as to the manner and time for holding the elections of delegates to the convention, or for ratification of the constitution framed by that convention, or for other purposes. The first section of the supplemental act provides that a registration of the voters shall be made before the first of September, 1867. The fourth and subsequent sections of this act provide for the means by which this registration is to be effected. The commanding general is directed to "appoint as many boards of registration as may be necessary, consisting of three loyal officers or persons, to make and complete the registration, superintend the election, and make return to him of the votes, lists of voters, and of the persons elected as delegates by a plurality of the votes cast at said election; and upon receiving said returns he shall open the same, ascertain the persons elected as delegates according to the returns of the officers who conducted said election, and make proclamation thereof; and if a majority of the votes given on that question shall be for a convention, the commanding general, within sixty days from the date of election, shall notify the delegates to assemble in convention, at a time and place to be mentioned in the notification; and said convention when organized shall proceed to frame a constitution and civil government, according to the provisions of this act and the act to which it is supplementary; and when the same shall have been so framed, said constitution shall be submitted by the convention for ratification to the persons registered under the provisions of this act, at an election to be conducted by the officers or persons appointed or to be appointed by the commanding general, as hereinbefore provided, and to be held after the expiration of thirty days from the date of notice thereof, to be given by said convention; and the returns thereof shall be made to the commanding general of the district."

The sixth section provides: "That all elections in the States mentioned in

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the said 'act to provide for the more efficient government of the rebel States,' shall during the operation of said act be by ballot, and all officers making the said registration of voters and conducting said elections shall, before entering upon the discharge of their duties, take and subscribe the oath prescribed by the act approved July second, eighteen hundred and sixty-two, entitled 'An act to prescribe an oath of office:' *Provided*, That if any person shall knowingly and falsely take and subscribe any oath in this act prescribed, such person so offending, and being thereof duly convicted, shall be subject to the pains, penalties, and disabilities which by law are provided for the punishment of wilful and corrupt perjury."

The only oaths prescribed by this act are the oath to be taken by the person applying for registration and the oath to be taken by the persons composing the board of registration.

The duties of the board are, first, to make and complete the registration, and to superintend the elections.

The first question is as to the duties and powers of the board in making and completing the registration. The first section provides that the commanding general "shall cause a registration to be made of the male citizens of the United States, twenty-one years of age and upwards, resident in each county or parish in the State or States included in his district, which registration shall include only those persons who are qualified to vote for delegates by the act aforesaid, and who shall have taken and subscribed the following oath or affirmation." By this oath the person applying for registration must swear or affirm to every qualification provided for by the original act. The first question which arises here is, whether any other oath can be required of the person applying for registration, or any oath can be administered to any other person or persons touching the qualifications of the applicants by the board of registration. The last clause of this first section provides as follows: "which oath or affirmation may be administered by any registering officer." The oath here referred to is the oath to be taken by the person applying for registration.

I have very carefully examined all the provisions of this act, and I can find no authority for any other oath to be taken by any one, touching the qualifications of the applicant for registration, but only this oath. I am clearly of opinion that any other oath touching the qualifications of the applicant would be extrajudicial, and without authority, and that false swearing could not be assigned as perjury upon such unauthorized oath, especially as the proviso to the sixth section above quoted, which declares what false swearing shall amount to perjury, is expressly limited to "any oath in this act prescribed."

In arriving at this conclusion, I have given due weight to that part of the first section of the act which declares that the "registration shall include only those persons who are qualified to vote for delegates by the act aforesaid, and who shall have taken and subscribed the following oath or affirmation." If we read these words by themselves, without regard to the other provisions of the act, the impression is made that two things must concur to authorize the registration of the applicant; first, that he actually possesses the qualifications required by the original act; and second, that he shall take the prescribed oath. But when we look to the qualifications required of the applicant by the original act, and find that he is required by this oath to swear to every one of these qualifications, and that no authority is anywhere given to enter upon any other inquiry as to his qualifications, or to administer any other oath to him, or any oath to any other person touching his qualifications, and that his oath, and his oath alone, is punished with perjury, it is impossible to resist the conclusion that the oath itself is the sole and only test of the qualification of the applicant. When, therefore, a person applies to the board for registration, the power of the board is confined to the administration of the prescribed oath, and if the applicant takes that his name must go upon the registry. The board cannot enter upon the inquiry

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whether he has sworn truly or falsely. That inquiry must be reserved to the court which may afterwards have jurisdiction to try him on an indictment for perjury.

Next, as to the duties of the board after the registration is completed. They are to "superintend the election and make return * * * of the votes, lists of voters, and of persons elected" to the commanding general.

It is very clear from these provisions that, in superintending these elections, the duty of the board is to receive the votes of the persons whose names are upon the registration, and to reject all others. There is no provision anywhere to surcharge or falsify or to add a single name to the registration, or to erase a single name which appears upon it.

HENRY STANBERY, *Attorney General.*

OPINION OF ATTORNEY GENERAL STANBERY, UNDER THE RECONSTRUCTION LAWS, DEFINING THE POWERS OF THE MILITARY COMMANDERS, AND FURNISHING A GENERAL SUMMARY OF THE DUTIES OF THE BOARD IN THE MATTER OF REGISTRATION, AND IN THE MATTER OF SUPERINTENDING THE ELECTIONS, AND AS TO THE QUALIFICATIONS AND DISQUALIFICATIONS OF PERSONS APPLYING FOR REGISTRATION.

ATTORNEY GENERAL'S OFFICE,
June 12, 1867.

SIR: On the 24th ultimo I had the honor to transmit for your consideration my opinion upon some of the questions arising under the reconstruction acts therein referred to. I now proceed to give my opinion on the remaining questions, upon which the military commanders require instructions.

First, as to the powers and duties of these commanders.

The original act recites in its preamble that "no legal State governments or adequate protection for life or property exist" in those ten States, and that "it is necessary that peace and good order should be enforced" in those States "until loyal and republican State governments can be legally established."

The first and second sections divide these States into five military districts, subject to the military authority of the United States as thereinafter prescribed, and make it the duty of the President to assign from the officers of the army, a general officer to the command of each district, and to furnish him with a military force to perform his duties and enforce his authority within his district.

The third section declares "that it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals, and to this end he may allow local civil tribunals to take jurisdiction of and try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose; and all interference under color of State authority with the exercise of military authority under this act shall be null and void."

The fourth section provides "That all persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted; and no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district, and the laws and regulations for the government of the army shall not be affected by this act, except in so far as they conflict with its provisions: *Provided*, That

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no sentence of death under the provisions of this act shall be carried into effect without the approval of the President."

The fifth section declares the qualification of voters of all elections, as well to frame the new constitution for each State as in the elections to be held under the provisional government until the new State constitution is ratified by Congress, and also fixes the qualifications of the delegates to frame the new constitution.

The sixth section provides, "That until the people of said rebel States shall be by law admitted to representation in the Congress of the United States, any civil governments which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same; and in all elections to any office under such provisional governments, all persons shall be entitled to vote, and none others, who are entitled to vote under the provisions of the fifth section of this act; and no person shall be eligible to any office under any such provisional governments who would be disqualified from holding office under the provisions of the third article of said constitutional amendment."

The duties devolved upon the commanding general by the supplementary act relate altogether to the registration of voters and the elections to be held under the provisions of that act. And as to these duties they are plainly enough expressed in that act, and it is not understood that any question not heretofore considered in the opinion referred to has arisen or is likely to arise in respect to them. My attention, therefore, is directed to the powers and duties of the military commanders under the original act.

We see clearly enough that this act contemplates two distinct governments in each of these ten States, the one military, the other civil. The civil government is recognized as existing at the date of the act. The military government is created by the act. Both are provisional, and both are to continue until the new State constitution is framed and the State is admitted to representation in Congress. When that event takes place, both these provisional governments are to cease. In contemplation of this act, this military authority and this civil authority are to be carried on together. The people in these States are made subject to both, and must obey both, in their respective jurisdictions.

There is, then, an imperative necessity to define as clearly as possible the line which separates the two jurisdictions, and the exact scope of the authority of each.

Now as to the civil authority, recognized by the act as the provisional civil government, it covered every department of civil jurisdiction in each of these States. It had all the characteristics and powers of a State government, legislative, judicial, and executive, and was in the full and lawful exercise of all these powers, except only that it was not entitled to representation as a State of the Union. This existing government is not set aside; it is recognized more than once by the act. It is not in any one of its departments, or as to any one of its functions, repealed or modified by this act, save only in the qualifications of voters, the qualifications of persons eligible to office, the manner of holding elections, and the mode of framing the constitution of the State. The act does not in any other respect change the provisional government, nor does the act authorize the military authority to change it. The power of further changing it is reserved, not granted, and it is reserved to Congress, not delegated to the military commander.

Congress was not satisfied with the organic law, or constitution, under which this civil government was established. That constitution was to be changed in only one particular to make it acceptable to Congress, and that was in the matter of the elective franchise. The purpose, the sole object, of this act is to effect that change, and to effect it by the agency of the people of the State, or such of them as are made voters, by means of elections provided for in the act, and

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in the mean time to preserve order and to punish offenders, if found necessary, by military commissions.

We are, therefore, not at a loss to know what powers were possessed by the existing civil authority. The only question is upon the powers conferred on the military authority. Whatever power is not given to the military, remains with the civil government.

We see, first of all, that each of these States is "made subject to the military authority of the United States"—not to the military authority altogether, but with this express limitation, "as hereinafter prescribed."

We must, then, examine what is thereinafter provided, to find the extent and nature of the power granted.

This, then, is what is granted to the military commander: the power or duty "to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish or cause to be punished, all disturbers of the public peace and criminals," and he may do this by the agency of the criminal courts of the State, or, if necessary, he may have resort to military tribunals.

This comprises all the powers given to the military commander.

Here is a general clause making it the duty of the military commander to give protection to all persons in their rights of person and property. Considered by itself, and without reference to the context and to other provisions of the act, it is liable, from its generality, to be misunderstood.

What sort of protection is here meant? What violations of the rights of persons or of property, are here intended? In what manner is this protection to be given? These questions arise at once.

It appears that some of the military commanders have understood this grant of power as all-comprehensive, conferring on them the power to remove the executive and judicial officers of the State, and to appoint other officers in their places, to suspend the legislative power of the State, to take under their control, by officers appointed by themselves, the collection and disbursement of the revenues of the State, to prohibit the execution of the laws of the State by the agency of its appointed officers and agents, to change the existing laws in matters affecting purely civil and private rights, to suspend or enjoin the execution of the judgments and decrees of the established State courts, to interfere in the ordinary administration of justice in the State courts, by prescribing new qualifications for jurors, and to change, upon the ground of expediency, the existing relations of the parties to contracts, giving protection to one party by violating the rights of the other party.

I feel confident that these military officers, in all they have done, have supposed that they had full warrant for their action. Their education and training have not been of the kind to fit them for the delicate and difficult task of giving construction to such a statute as that now under consideration. They require instruction, and nearly all of them have asked for instruction, to solve their own doubts, and to furnish to them a safe ground for the performance of their duties.

There can be no doubt as to the rule of construction according to which we must interpret this grant of power. It is a grant of power to military authority, over civil rights and citizens, in time of peace. It is a new jurisdiction, never granted before, by which, in certain particulars and for certain purposes, the established principle that the military shall be subordinate to the civil authority, is reversed. The rule of construction to be applied to such a grant of power is thus stated in *Dwarris on Statutes*, page 652: "A statute creating a new jurisdiction ought to be construed strictly."

Guided by this rule, and in the light of other rules of construction familiar to every lawyer, especially of those which teach us that, in giving construction to single clauses, we must look to the context and to the whole law, that general

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clauses are to be controlled by particular clauses, and that such construction is to be put on a special clause as to make it harmonize with the other parts of the statute, so as to avoid repugnancy, I proceed to the construction of this part of the act.

To consider then, in the first place, the terms of the grant. It is of a power to protect all persons in their rights of person and property. It is not a power to create new rights, but only to protect those which exist and are established by the laws under which these people live. It is a power to preserve, not to abrogate; to sustain the existing frame of social order and civil rule, and not a power to introduce military rule in its place. In effect, it is a police power, and the protection here intended is protection of persons and property against violence, unlawful force, and criminal infraction. It is given to meet the contingency recited in the preamble, of a want of "adequate protection for life and property;" and the necessity also recited "that peace and good order should be enforced."

This construction is made more apparent when we look at the immediate context, and see in what mode, and by what agency, this protection is to be secured. This duty, or power, of protection is to be formed by the suppression of insurrection, disorder, and violence, and by the punishment, either by the agency of the State courts, or by military commissioners, when necessary, of all disturbers of the public peace and criminals; and it is declared that all interference, under color of State authority, with the exercise of this military authority, shall be null and void.

The next succeeding clause provides for a speedy trial of the offender, forbids the infliction of cruel and unusual punishment, and requires that sentences of these military courts, which involve the liberty or life of the accused, shall have the approval of the commanding general, and, as to a sentence of death, the approval of the President, before execution.

All these special provisions have reference to the preservation of order, and protection against violence and crime. They touch no other department or function of the civil administration, save only its criminal jurisdiction, and even as to that the clear meaning of this act is, that it is to be interfered with by the military authority, unless when a necessity for such interference may happen to arise.

I see no authority, nor any shadow of authority, for interference with any courts or any other jurisdiction, than criminal courts in the exercise of criminal jurisdiction. The existing civil authority in all its other departments, legislative, executive, and judicial, is left untouched. There is no provision, even under the plea of necessity, to establish by military authority, courts or tribunals for the trial of civil cases, or for the protection of such civil rights of person or property as come within the cognizance of civil courts as contradistinguished from criminal courts. In point of fact, there was no foundation for such a grant of power, for the civil rights act, and the Freedmen's Bureau act, neither of which is superseded by this act, made ample provision for the protection of all merely civil rights where the laws or courts of these States might fail to give full, impartial protection.

I find no authority anywhere in this act for the removal by the military commander of the proper officers of a State, either executive or judicial, or the appointment of persons to their places. Nothing short of an express grant of power would justify the removal or the appointment of such an officer. There is no such grant expressed or even implied. On the contrary, the act clearly enough forbids it. The regular State officials, duly elected and qualified, are entitled to hold their offices. They, too, have rights which the military commander is bound to protect, not authorized to destroy.

We find in the concluding clause of the sixth section of the act that these officials are recognized, and express provision is made to perpetuate them. It is enacted that "in all elections to any office under such provisional governments,

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all persons shall be entitled to vote, and none others, who are entitled to vote under the provisions of the fifth section of this act; and no person shall be eligible to any office under such provisional governments who would be disqualified from holding office under the provisions of this act."

This provision not only recognizes all the officers of the provisional governments, but, in case of vacancies, very clearly points out how they are to be filled; and that happens to be in the usual way, by the people, and not by any other agency or any other power, either State or federal, civil or military.

I find it impossible under the provisions of this act to comprehend such an official as a governor of one of these States appointed to office by one of these military commanders. Certainly he is not the governor recognized by the laws of the State, elected by the people of the State, and clothed as such with the chief executive power. Nor is he appointed as a military governor for a State which has no lawful governor, under the pressure of an existing necessity, to exercise powers at large. The intention, no doubt, was to appoint him to fill a vacancy occasioned by a military order, and to put him in the place of the removed governor, to execute the functions of the office as provided by law. The law takes no cognizance of such an official, and he is clothed with no authority or color of authority.

What is true as to the governor is equally true as to all the other legislative, executive, and judicial officers of the State. If the military commander can oust one from his office, he can oust them all. If he can fill one vacancy he can fill all vacancies, and thus usurp all civil jurisdiction into his own hands, or the hands of those who hold their appointments from him and subject to his power of removal, and thus frustrate the very right secured to the people by this act. Certainly this act is rigorous enough in the power which it gives. With all its severity, the right of electing their own officers is still left with the people, and it must be preserved.

I must not be understood as fixing limits to the power of the military commander in case of an actual insurrection or riot. It may happen that an insurrection in one of these States may be so general and formidable as to require the temporary suspension of all civil government, and the establishment of martial law in its place. And the same thing may be true as to local disorder or riot in reference to the civil government of the city or place where it breaks out.

Whatever power is necessary to meet such emergencies, the military commander may properly exercise. I confine myself to the proper authority of the military commander where peace and order prevail. When peace and order do prevail, it is not allowable to displace the civil officers and appoint others in their places under any idea that the military commander can better perform his duties and carry out the general purposes of the act by the agency of civil officers of his own choice rather than by the lawful incumbents. The act gives him no right to resort to such agency, but does give him the right to have a sufficient military force to enable him to perform his duties and enforce his authority within the district to which he is assigned.

In the suppression of insurrection and riot, the military commander is wholly independent of the civil authority. So, too, in the trial and punishment of criminals and offenders, he may supersede the civil jurisdiction. His power is to be exercised in these special emergencies, and the means are put into his hands by which it is to be exercised—that is to say, "a sufficient military force to enable such officer to perform his duties and enforce his authority," and military tribunals of his own appointment to try and punish offenders. These are strictly military powers, to be executed by military authority, not by the civil authority or by civil officers appointed by him to perform ordinary civil duties.

If these emergencies do not happen, if civil order is preserved, and criminals are duly prosecuted by the regular criminal courts, the military power, though present, must remain passive. Its proper function is to preserve the peace, to

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act promptly when the peace is broken, and restore order. When that is done and the civil authority may again safely resume its functions, the military power becomes again passive, but on guard and watchful.

This, in my judgment, is the whole scope of the military power conferred by this act, and in arriving at this construction of the act, I have not found it necessary to resort to the strict construction which is allowable.

What has been said indicates my opinion as to any supposed power of the military commander to change or modify the laws in force. The military commander is made a conservator of the peace, not a legislator. His duties are military duties, executive duties, not legislative duties. He has no authority to enact or declare a new code of laws for the people within his district under any idea that he can make a better code than the people have made for themselves. The public policy is not committed to his discretion. The Congress which passed this act undertook in certain grave particulars to change these laws, and these changes being made, the Congress saw no further necessity of change, but were content to leave all the other laws in full force, but subject to this emphatic declaration, that as to these laws and such future changes as might be expedient, the question of expediency and the power to alter, amend, or abolish, was reserved for "the paramount authority of the United States at any time to abolish, modify, control, or supersede the same." Where, then, does a military commander find his authority "to abolish, modify, control, or supersede" any one of those laws?

The enumeration of the extraordinary powers exercised by the military commanders in some of the districts would extend this opinion to an unreasonable length. A few instances must suffice.

In one of these districts the governor of a State has been deposed under a threat of military force, and another person, called a governor, has been appointed by the military commander to fill his place. Thus presenting a strange spectacle of an official intrusted with the chief power to execute the laws of the State whose authority is not recognized by the laws he is called upon to execute.

In the same district the judge of one of the criminal courts of the State has been summarily dealt with. The act of Congress does give authority to the military commander, in cases of necessity, to transfer the jurisdiction of a criminal court to a military tribunal. That being the specific authority over the criminal courts given by the act, no other authority over them can be lawfully exercised by the military commander. But in this instance the judge has, by military order, been ejected from his office and a private citizen has been appointed judge in his place, by military authority, and is now in the exercise of criminal jurisdiction "over all crimes, misdemeanors, and offences," committed within the territorial jurisdiction of the court. This military appointee is certainly not authorized to try any one for any offence as a member of a military tribunal, and he has just as little authority to try and punish any offender as a judge of a criminal court of the State.

It happens that this private citizen, thus placed on the bench, is to sit as the sole judge in a criminal court whose jurisdiction extends to cases involving the life of the accused. If he has any judicial power in any case, he has the same power to take cognizance of capital cases, and to sentence the accused to death, and order his execution. A strange spectacle! where the judge and the criminal may very well "change places;" for if the criminal has unlawfully taken life, so too does the judge. This is the inevitable result, for the only tribunal, the only judges, if they can be called judges, which a military commander can constitute and appoint under this act, to inflict the death penalty, is a military court composed of a board, and called in the act a "military commission."

I see no relief for the condemned against the sentence of this agent of the military commander. It is not the sort of court whose sentence of death must be first approved by the commander and finally by the President; for that is allowed

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only where the sentence is pronounced by a "military commission." Nor is it a sentence pronounced by the rightful court of the State, but by a court, and by a judge not clothed with authority under the laws of the State, but constituted by the military authority. As the representative of this military authority, this act forbids interference "under color of State authority" with the exercise of his functions.

In another of these districts a military order commands the governor of the State to forbid the reassembling of the legislature, and thus suspends the proper legislative power of the State. In the same district an order has been issued "to relieve the treasurer of the State from the duties, bonds, books, papers, &c., appertaining to his office," and to put an "assistant quartermaster of United States volunteers" in place of the removed treasurer; the duties of which quartermaster-treasurer are thus summed up: He is to make to the headquarters of the district "the same reports and returns required from the treasurer, and a monthly statement of receipts and expenditures; he will pay all warrants for salaries which may be, or become, due, and the legitimate expenditures for the support of the penitentiary, State asylum, and the support of the provisional State government; but no scrip or warrants for outstanding debts of other kind than those specified will be paid without special authority from these headquarters. He will deposit funds in the same manner as though they were those of the United States."

In another of these districts a body of military edicts, issued in general and special orders regularly numbered, and in occasional circulars, have been promulgated, which already begin to assume the dimensions of a code. These military orders modify existing law in the remedies for the collection of debts, the enforcement of judgments and decrees for the payment of money, staying proceedings instituted, prohibiting, in certain cases, the right to bring suit, enjoining proceedings on execution for the term of twelve months, giving new liens in certain cases, establishing homstead exemptions, declaring what shall be a legal tender, abolishing in certain cases the remedy by foreign attachment, abolishing bail "as heretofore authorized" in cases *ex contractu*, but not in "other cases, known as actions *ex delicto*," and changing, in several particulars, the existing laws as to the punishment of crimes, and directing that the crimes referred to "shall be punished by imprisonment at hard labor for a term not exceeding ten years nor less than two years, in the discretion of the court having jurisdiction thereof." One of these general orders, being numbered ten of the series, contains no less than seventeen sections, embodying the various changes and modifications which have been recited.

The question at once arises in the mind of every lawyer, what power or discretion belongs to the court having jurisdiction of any of these offences to sentence a criminal to any other or different punishment than that provided by the law which vests him with jurisdiction. The concluding paragraph of this order No. 10 is in these words: "Any law or ordinance heretofore in force in force in North Carolina or South Carolina, inconsistent with the provisions of this general order, are hereby suspended and declared inoperative." Thus announcing, not only a power to suspend the laws, but to declare them generally inoperative, and assuming full powers of legislation by the military authority.

The ground upon which these extraordinary powers are based is thus set forth in military order No. 1, issued in this district: "The civil government now existing in North Carolina and South Carolina is provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same." Thus far the provisions of the act of Congress are well recited. What follows is in these words: "Local laws and municipal regulations not inconsistent with the Constitution and laws of the United States, or the proclamations of the President, or with such regulations as are or may be prescribed in the orders of the commanding general,

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are hereby declared to be in force, and in conformity therewith civil officers are hereby authorized to continue the exercise of their proper functions, and will be respected and obeyed by the inhabitants."

This construction of his powers under the act of Congress places the military commander on the same footing as the Congress of the United States. It assumes that "the paramount authority of the United States at any time to abolish, modify, control, or supersede," is vested in him as fully as it is reserved to Congress. He deems himself a representative of that paramount authority. He puts himself upon an equality with the law-making power of the Union, the only paramount authority in our government, so far, at least, as the enactment of laws is concerned. He places himself on higher ground than the President, who is simply an executive officer. He assumes, directly or indirectly, all the authority of the State, legislative, executive, and judicial, and in effect declares "I am the State."

I regret that I find it necessary to speak so plainly of this assumption of authority. I repeat what I have heretofore said, that I do not doubt that all these orders have been issued under an honest belief that they were necessary or expedient, and fully warranted by the act of Congress. There may be evils and mischiefs in the laws which these people have made for themselves through their own legislative bodies, which require change; but none of these can be so intolerable as the evils and mischiefs which must ensue from the sort of remedy applied. One can plainly see what will be the inevitable confusion and disorder which such disturbances of the whole civil policy of the State must produce. If these military edicts are allowed to remain, even during the brief time in which this provisional military government may be in power, the seeds will be sowed for such a future harvest of litigation as has never been inflicted upon any other people.

There is, in my opinion, an executive duty to be performed here, which cannot safely be avoided or delayed. For notwithstanding the paramount authority assumed by these commanders, they are not, even as to their proper executive duties, in any sense, clothed with a paramount authority. They are, at last, subordinate executive officers. They are responsible to the President for the proper execution of their duties, and upon him rests the final responsibility. They are his selected agents. His duty is not all performed by selecting such agents as he deems competent; but the duty remains with him to see to it that they execute their duties faithfully and according to law.

It is true that this act of Congress only refers to the President in the matter of selecting and appointing these commanders, and in the matter of their powers and duties under the law, the act speaks in terms directly to them; but this does not relieve them from their responsibility to the President, nor does it relieve him from the constitutional obligation imposed upon him to see that all "the laws be faithfully executed."

It can scarcely be necessary to cite authority for so plain a proposition as this. Nevertheless, as we have a recent decision completely in point, I may as well refer to it.

Upon the motion made by the State of Mississippi before the Supreme Court of the United States at its late term, for leave to file a bill against the President of the United States, to enjoin him against executing the very acts of Congress now under consideration, the opinion of the court upon dismissing that motion, and it seems to have been unanimous, was delivered by the Chief Justice. I make the following quotation from the opinion: "Very different is the duty of the President in the exercise of the power to see that the laws are faithfully executed, and among those laws the acts named in the bill. By the first of these acts he is required to assign generals to command in the several military districts, and to detail sufficient military force to enable such officers to discharge their duties under the law. By the supplementary act, other duties are imposed on the several

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commanding generals, and their duties must necessarily be performed under the supervision of the President as Commander-in-chief. The duty thus imposed on the President is in no just sense ministerial. It is purely executive and political."

Certain questions have been propounded from one of these military districts touching the construction of the power of the military commander to constitute military tribunals for the trial of offenders, which I will next consider.

Whilst the act does not in terms displace the regular criminal courts of the State, it does give the power to the military commander, when, in his judgment, a necessity arises to take the administration of the criminal law into his own hands, and to try and punish offenders by means of military commissions.

In giving construction to this power, we must not forget the recent and authoritative exposition given by the Supreme Court of the United States as to the power of Congress to provide for military tribunals for the trial of citizens in time of peace, and to the emphatic declaration as to which there was no dissent or difference of opinion among the judges, that such a power is not warranted by the Constitution. A single extract from the opinion of the minority, as delivered by Chief Justice Chase, will suffice: "We by no means assert that Congress can establish and apply the laws of war where no war has been declared or exists. Where peace exists the laws of peace must prevail. What we do maintain is, that when the nation is involved in war, and some portions of the country are invaded, and all are exposed to invasion, it is within the power of Congress to determine in what States or districts such great and imminent public danger exists as justifies the authorization of military tribunals for the trial of crimes and offences against the discipline and security of the army or against the public safety."

Limiting myself here simply to the construction of this act of Congress and to the question in what way it should be executed, I have no hesitation in saying that nothing short of an absolute controlling necessity would give any color of authority for arraigning a citizen before a military commission. A person charged with crime in any of these military districts has rights to be protected, rights the most sacred and inviolable, and among these the right of trial by jury according to laws of the land. When a citizen is arraigned before a military commission on a criminal charge, he is no longer under the protection of law, nor surrounded with those safeguards which are provided in the Constitution.

This act, passed in the time of peace, when all the courts, State and federal, are in the undisturbed exercise of their jurisdiction, authorizes, at the discretion of a military officer, the seizure, trial, and condemnation of a citizen. The accused may be sentenced to death, and the sentence may be executed, without an indictment, without counsel, without a jury, and without a judge. A sentence which forfeits all the property of the accused requires no approval. If it affects the liberty of the accused, it requires the approval of the commanding general; and if it affects his life, it requires the approval of the general and of the President. Military and executive authority rule throughout, in the trial, the sentence, and the execution. No *habeas corpus* from any State court can be invoked, for this law declares that "all interference, under color of State authority, with the exercise of military authority under this act, shall be null and void"

I repeat it, that nothing short of an absolute necessity can give any color of authority to a military commander to call into exercise such a power. It is a power the exercise of which may involve him, and every one concerned, in the gravest responsibilities. The occasion for its exercise should be reported at once to the Executive for such instructions as may be deemed necessary and proper.

Questions have arisen whether, under this power, these military commissioners can take cognizance of offences committed before the passage of the act, and whether they can try and punish for acts not made crimes or offences by federal or State law.

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I am clearly of opinion that they have no jurisdiction as to either. They can take cognizance of no offence that has not happened after the law took effect. Inasmuch as the tribunal to punish, and the measure or degree of punishment, are established by this act, we must construe it tob e prospective, and not retroactive. Otherwise it would take the character of an *ex post facto* law. Therefore in the absence of any language which gives the act a retrospect, I do not hesitate to say it cannot apply to past offences.

There is no legislative power given under this military bill to establish a new criminal code. The authority given is to try and punish criminals and offenders, and this proceeds upon the idea that crimes and offences have been committed; but no person can be called a criminal or an offender for doing an act which, when done, was not prohibited by law.

But as to the measure of punishment, I regret to be obliged to say that it is left altogether to the military authorities, with only this limitation, that the punishment to be inflicted shall not be cruel or unusual. The military commission may try the accused, fix the measure of punishment, even to the penalty of death, and direct the execution of the sentence. It is only when the sentence affects the "life or liberty" of the person that it need be approved by the commanding general, and only in cases where it affects the life of the accused that it needs also the approval of the President.

As to crimes or offences against the laws of the United States, the military authority can take no cognizance of them, nor in any way interfere with the regular administration of justice by the appropriate federal courts.

In the opinion heretofore given upon other questions arising under these laws, I gave at large for your consideration the grounds upon which my conclusions were arrived at, intending thereafter to state these conclusions in a concise and clear summary. I now proceed to execute that purpose, which is made especially necessary from the confusion and doubts which have arisen upon that opinion in the public mind, caused in part by the errors of the telegraph and the press in its publication, and in part by the inaptitude of the general reader to follow carefully the successive and dependent steps of a protracted legal opinion.

SUMMARY.

WHO ARE ENTITLED TO REGISTRATION.

1. The oath prescribed in the supplemental act defines all the qualifications required, and every person who can take that oath is entitled to have his name entered upon the list of voters.

2. The board of registration have no authority to administer any other oath to the person applying for registration than this prescribed oath; nor to administer any oath to any other person, touching the qualifications of the applicant, or the falsity of the oath so taken by him. The act to guard against falsity in the oath, provides that, if false, the person taking it shall be tried and punished for perjury.

No provision is made for challenging the qualifications of the applicant, or entering upon any trial or investigation of his qualifications, either by witnesses or any other form of proof.

3. *As to citizenship and residence.*

The applicant for registration must be a citizen of the State and of the United States, and must be a resident of a county included in the election district. He may be registered if he has been such citizen for a period less than twelve

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months at the time he applies for registration, but he cannot vote at any election unless his citizenship has then extended to the full term of one year. As to such a person the exact length of his citizenship should be noted opposite his name on the list, so that it may appear on the day of election, upon reference to the list, whether the full term has been accomplished.

4. An unnaturalized person cannot take this oath, but an alien who has been naturalized can take it, and no other proof of naturalization can be required from him.

5. No one who is not twenty-one years of age at the time of registration can take the oath, for he must swear that he has then attained that age.

6. No one who has been disfranchised for participation in any rebellion against the United States, or for felony committed against the laws of any State or of the United States, can safely take this oath.

The actual participation in a rebellion, or the actual commission of a felony, does not amount to disfranchisement. The sort of disfranchisement here meant is that which is declared by law passed by competent authority, or which has been fixed upon the criminal by the sentence of the court which tried him for the crime.

No law of the United States has declared the penalty of disfranchisement for participation in rebellion alone. Nor is it known that any such law exists in either of these ten States, except perhaps Virginia, as to which State special instructions will be given.

7. *As to disfranchisement arising from having held office followed by participation in rebellion.*

This is the most important part of the oath, and requires strict attention to arrive at its meaning. I deem it proper to give the exact words. The applicant must swear, or affirm, as follows:

"That I have never been a member of any State legislature, nor held any executive or judicial office in any State, and afterwards engaged in an insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof."

Two elements must concur in order to disqualify a person under these clauses: *First*, the office and official oath to support the Constitution of the United States. *Second*, engaging afterwards in rebellion. Both must exist to work disqualification, and must happen in the order of time mentioned.

A person who has held an office and taken the oath to support the federal Constitution, and has not afterwards engaged in rebellion, is not disqualified. So, too, a person who has engaged in rebellion, but has not theretofore held an office and taken that oath, is disqualified.

8. *Officers of the United States.*

As to these the language is without limitation. The person who has at any time prior to the rebellion held any office, civil or military, under the United States, and has taken an official oath to support the Constitution of the United States, is subject to disqualification.

9. *Military officers* of any State, prior to the rebellion, are not subject to disqualification.

10. *Municipal officers*—that is to say, officers of incorporated cities, towns, and villages, such as mayors, aldermen, town council, police, and other city or town officers—are not subject to disqualification.

11. Persons who have, prior to the rebellion, been members of the Congress of the United States, or members of a State legislature, are subject to disqualifi-

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cation. But those who have been members of conventions framing or amending the constitution of a State, prior to the rebellion, are not subject to disqualification.

12. All the executive or judicial officers of any State, who took an oath to support the Constitution of the United States, are subject to disqualification, and in these I include county officers, as to whom I made a reservation in the opinion heretofore given. After full consideration I have arrived at the conclusion that they are subject to disqualification, if they were required to take as a part of their official oath *the oath to support the Constitution of the United States.*

13. Persons who exercised mere agencies or employments under State authority are not disqualified; such as commissioners to lay out roads, commissioners of public works; visitors of State institutions; directors of State banks or other State institutions; examiners of banks; notaries public, commissioners to take acknowledgments of deeds, and lawyers.

ENGAGING IN REBELLION.

Having specified what offices held by any one prior to the rebellion come within the meaning of the law, it is necessary next to set forth what subsequent conduct fixes upon such person the offence of engaging in rebellion. I repeat that two things must exist as to any person, to disqualify him from voting: first, the office held prior to the rebellion; and afterwards, participation in the rebellion.

14. An act to fix upon a person the offence of engaging in rebellion under this law must be an overt and voluntary act, done with the intent of aiding or furthering the common unlawful purpose. A person forced into the rebel service by conscription, or under a paramount authority which he could not safely disobey, and who would not have entered such service if left to the free exercise of his own will, cannot be held to be disqualified from voting.

15. Mere acts of charity, where the intent is to relieve the wants of the object of such charity, and not done in aid of the cause in which he may have been engaged, do not disqualify. But organized contributions of food and clothing for the general relief of persons engaged in the rebellion, and not of a merely sanitary character, but contributed to enable them to perform their unlawful object, may be classed with acts which do disqualify.

Forced contributions to the rebel cause, in the form of taxes or military assessments, which a person may be compelled to pay or contribute, do not disqualify. But voluntary contributions to the rebel cause, even such indirect contributions as arise from the voluntary loan of money to rebel authorities, or purchase of bonds or securities created to afford the means of carrying on the rebellion, will work disqualification.

16. All those who, in legislative or other official capacity, were engaged in the furtherance of the common unlawful purpose, where the duties of the office necessarily had relation to the support of the rebellion, such as members of the rebel conventions, congresses, and legislatures, diplomatic agents of the rebel confederacy, and other officials whose offices were created for the purpose of more effectually carrying on hostilities, or whose duties appertained to the support of the rebel cause, must be held to be disqualified.

But officers who, during the rebellion, discharged official duties not incident to war, but only such duties as belong even to a state of peace, and were necessary to the preservation of order and the administration of law, are not to be considered as thereby engaging in rebellion or as disqualified. Disloyal sentiments, opinions, or sympathies would not disqualify, but where a person has by speech or by writing incited others to engage in rebellion, he must come under the disqualification.

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17. *The duties of the board appointed to superintend the elections.*

This board, having the custody of the list of registered voters in the district for which it is constituted, must see that the name of the person offering to vote is found upon the registration list, and if such proves to be the fact, it is the duty of the board to receive his vote. They cannot receive the vote of any person whose name is not upon the list, though he may be ready to take the registration oath, and although he may satisfy them that he was unable to have his name registered at the proper time, in consequence of absence, sickness, or other cause.

The board cannot enter into any inquiry as to the qualifications of any person whose name is not on the list, or as to the qualifications of any person whose name is on the list.

18. *The mode of voting* is provided in the act to be *by ballot.* The board will keep a record and poll-book of the election, showing the votes, list of voters, and the persons elected by a plurality of the votes cast at the election, and make returns of these to the commanding general of the district.

19. The board appointed for registration and for superintending the elections must take the oath prescribed by the act of Congress, approved July 2, 1862, entitled "An act to prescribe an oath of office."

I have the honor to be, with great respect,

HENRY STANBERY,
Attorney General.

The PRESIDENT.

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MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

COMMUNICATING,

In compliance with a resolution of the Senate of the 8th instant, information in relation to correspondence between the Department of State and the Hon. Lewis D. Campbell, late minister of the United States to Mexico.

JULY 16, 1867.—Read, ordered to lie on the table and be printed.

DEPARTMENT OF STATE,
Washington, July 12, 1867.

The Secretary of State, to whom was referred the resolution of the Senate of the 8th instant, requesting the President, "if not incompatible with the public interest, to transmit to the Senate all the official correspondence between the Department of State and the Hon. Lewis D. Campbell, late minister of the United States to the republic of Mexico, from the time of his appointment; also the correspondence of the department with his successor," has the honor to report that, in compliance with a resolution of the House of Representatives of the 3d instant, of the same tenor, all the correspondence called for by the resolution of the Senate has already been laid before the President for transmission to the House of Representatives.

Respectfully submitted.

WILLIAM H. SEWARD.

The PRESIDENT.

To the Senate of the United States:

In compliance with the resolution of the Senate of the 8th instant, requesting me to transmit "all the official correspondence between the Department of State and the Hon. Lewis D. Campbell, late minister of the United States to the republic of Mexico, from the time of his appointment; also the correspondence of the department with his successor," I communicate, herewith, a report on the subject from the Secretary of State, from which it appears that the correspondence called for by the Senate has already been communicated to the House of Representatives.

ANDREW JOHNSON.

WASHINGTON, *July* 12, 1867.

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MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

COMMUNICATING

A copy of a convention between the United States of America and the republic of Venezuela for the adjustment of claims of citizens of the United States on the government of that republic.

JULY 16, 1867.—Read, referred to the Committee on Foreign Relations and ordered to be printed.

To the Senate and House of Representatives:

I transmit to Congress a copy of a convention between the United States and the republic of Venezuela for the adjustment of claims of citizens of the United States on the government of that republic. The ratifications of this convention were exchanged at Caracas on the tenth of April last. As its first article stipulates that the commissioners shall meet in that city within four months from that date, the expediency of passing the usual act for the purpose of carrying the convention into effect will, of course, engage the attention of Congress.

ANDREW JOHNSON.

WASHINGTON, *July* 5, 1867.

Convention between the United States of America and the Republic of Venezuela, concluded at Caracas April 25, 1866; *proclaimed by the President of the United States May* 29, 1867.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA:

A PROCLAMATION.

Whereas a convention between the United States of America and the republic of Venezuela was concluded and signed by their respective plenipotentiaries at the city of Caracas, on the twenty-fifth day of April, in the year of our Lord one thousand eight hundred and sixty-six, which convention, being in the English and Spanish languages, is, word for word, as follows:

The conclusion of a convention similar to those entered into with other republics, and by which the pending American claims upon Venezuela might be referred for decision to a mixed commission and an umpire, having been proposed to the Venezuelan government, on behalf of the United States

Habiéndose propuesto al Gobierno de parte de los Estados Unidos de América, como medio de considerar y resolver en justicia las reclamaciones pendientes de ciudadanos de ellos contra los Estados Unidos de Venezuela, la celebracion de un convenio análogo á los ajustados con otras repúblicas, y por el cual se pone la

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of America, as a means of examining and justly terminating such claims; and it having been thought that the adoption of the contemplated course will secure at least some of the advantages attending arbitration, so strongly recommended in article the 112th of the federal constitution of Venezuela, while it will preserve unimpaired, as reciprocally desired, the good understanding of both nations, the citizen first vice-president in charge of the presidency has accepted the above proposal, and authorized the minister for foreign relations to negotiate and sign the proper convention. Thereupon said minister and Mr. E. D. Culver, minister resident of the United States of America, also duly empowered for that purpose, have agreed upon the following

ARTICLES OF CONVENTION.

ARTICLE 1.

All claims on the part of corporations, companies, or individuals, citizens of the United States, upon the government of Venezuela, which may have been presented to their government, or to its legation in Caracas, shall be submitted for examination and decision to a mixed commission, consisting of two members, one of whom shall be appointed by the government of the United States and the other by that of Venezuela. In case of death, absence, resignation, or incapacity of either of the commissioners, or in the event of either of them omitting or ceasing to act, the government of the United States or that of Venezuela respectively, or the minister of the United States in Caracas, by authority of his government, shall forthwith proceed to fill the vacancy.

The commissioners so named shall meet in the city of Caracas within four months from the exchange of the ratifications of this convention; and before proceeding to business they shall make solemn oath that they will carefully examine and impartially decide according to justice, and in compliance with the provisions of this convention, all claims submitted to them, and such oath shall be entered on the record of their proceedings.

decision de tales asuntos en manos de una comision mixta y de un tercero en discordia, y habiéndose juzgado que así se logran, siquiera en parte, las ventajas del arbitraimento, tan recomendado en el artículo 112 de la constitucion federal de Venezuela, al paso que se mantendrá siempre desembarazada la buena correspondencia de ambas naciones, segun mútuamente se desea; el ciudadano primer designado en ejercicio de la Presidencia ha suscrito á la propuesta, y expedido al ministro de relaciones exteriores las órdenes consiguientes para negocíar y firmar la convencion respectiva. En esta virtud, dicho ministro y el Señor E. D. Culver, ministro residente de los Estados Unidos de América, provisto de autorizacion bastante, han convenido en los artículo siguientes.

ARTICULO 1°.

Todas las reclamaciones contra Venezuela que corporaciones, compañías ó ciudadanos particulares de los Estados Unidos de América hayan presentado á su gobierno ó á la legacion de ellos en Carácas, serán sometidas al exámen y decision de una comision mixta compuesta de dos individuos nombrados uno por el gobierno de Venezuela y otro por el de los Estados Unidos. En los casos de muerte, ausencia, renuncia ó incapacidad de alguno de los comisionados, ó de que falte o cese en el ejercicio de sus funciones, el gobierno de Venezuela ó el de los Estados Unidos respectivamente ó el ministro de los Estados Unidos en Carácas con autorizacion de su gobierno procederán inmediatamente á llenar la vacante.

Los comisionados así elegidos se reunirán en la ciudad de Carácas dentro de cuatro meses contados desde el canje de las ratificaciones de este convenio; y antes de entrar en el ejercicio de su encargo, prestarán, el solemne juramento de examinar escrupulosamente y decidir con imparcialidad y justicia y segun lo estipulado en este convenio, todas las reclamaciones que les fueren sometidas. Tal juramento constará en el registro de sus trabajos.

Los comisionados procederán en se-

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The commissioners shall then proceed to appoint an umpire to decide upon any case or cases concerning which they may disagree, or upon any point of difference that may arise in the course of their proceedings. And if they cannot agree in the selection, the umpire shall be named by the diplomatic representative either of Switzerland or of Russia, in Washington, on the previous invitation of the high contracting parties.

guida á nombrar un árbitro para que decida los casos en que ellos no estén de acuerdo, ó las diferencias que se susciten en el curso de sus actos. Si no pudieran convenirse en la eleccion del árbitro, este será nombrado por el agente diplomático de Suiza ó el de Rusia en Washington, previa invitacion de las altas partes contratantes.

Article 2.

So soon as the umpire shall have been appointed, the commissioners shall proceed without delay to examine the claims which may be presented to them under this convention, and they shall, if required, hear one person in behalf of each government on every separate claim. Each government shall furnish, on request of either commissioner, all such documents and papers in its possession as may be deemed important to the just determination of any claim.

In cases where they agree to award an indemnity, they shall determine the amount to be paid, and issue certificates of the same. In cases where the commissioners cannot agree, the point of difference shall be referred to the umpire, before whom each of the commissioners may be heard, and whose decision shall be final.

The commissioners shall make such decision as they shall deem, in reference to such claims, conformable to justice, even though such decisions amount to an absolute denial of illegal pretensions, since the including of any such in this convention is not to be understood as working prejudice in favor of any one, either as to principles of right or matters of fact.

Articulo 2°.

Luego que haya sido nombrado el árbitro, los comisionados procederán sin demora á examinar las reclamaciones que se les presenten en virtud de este convenio; y oirán, si fuere necesario, á una persona de parte de cada gobierno sobre cada reclamacion. Cada gobierno suministrará á los comisionados, á solicitud de cualquiera de ellos, todos los documentos y papeles que esten en su poder, y se juzguen importantes para determinar en justicia cualquier reclamacion.

Cuando los comisionados convengan en otorgar alguna indemnizacion, fijarán la cantidad que deba pagarse y expedirán certificados al efecto. En los casos en que no puedan ponerse de acuerdo, los puntos de discordia se someterán al árbitro, ante el cual podrá ser oido cada uno de los comisionados, y cuya decision será definitiva.

Los comisionados librarán acerca de las reclamaciones las sentencias que estimen arregladas á justicia, aunque por ellas se nieguen absolutamente las pretensiones ilegítimas, pues con su inclusion en este convenio nada se prejuzga á favor de ninguna, ni en cuanto á los principios de derecho ni á los puntos de hecho.

Article 3.

The commissioners shall issue certificates of the sums to be paid to the claimants, respectively, by virtue of their decisions, or those of the umpire, and the aggregate amount of all sums awarded by the commissioners, and of all sums accruing from awards made by the umpire shall be paid to the govern-

Articulo 3°.

Los comisionados expedirán certificados de las sumas que hayan de pagarse á los reclamantes respectivamente en virtud de sus fallos ó de los fallos del árbitro; y el importe total de las dichas sumas concedidas por los comisionados ó por el árbitro, será pagado al gobierno de los Estados Unidos. El

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ment of the United States. Payments of said sums shall be made in equal annual payments, to be completed within ten years from the date of the termination of the labors of the commission; the first payment to be made six months from same date. Semi-annual interest shall be paid on the several sums awarded, at a rate of five per cent. per annum from the date of the termination of the labors of the commission.

pago se hará en porciones anuas iguales, debiendo quedar completo dentro de diez años contados desde la fecha del término de los trabajos de la comision, y empezarse á los seis meses de la misma fecha. Por las varias sumas decretadas se pagará cada seis meses el interes de cinco por ciento al año, entendiéndose que no empieza á correr hasta la fecha en que la comision concluya sus tareas.

ARTICLE 4.

The commission shall terminate its labors in twelve months from the date of its organization, except that thirty days' extension may be given to issue certificates, if necessary, on the decisions of the umpire in the case referred to in the following article. They shall keep a record of their proceedings, and may appoint a secretary.

ARTICULO 4º.

La comision terminará sus trabajos á los doce meses contados desde el dia de su instalacion, aunque podrá tener una próroga de treinta dias, si fuere necesaria, para certificar las decisiones del árbitro en el caso de que trataen el artículo siguente; llevará un registro de sus actos, y podra nombrar un secretario.

ARTICLE 5.

The decisions of this commission and those (in case there may be any) of the umpire, shall be final and conclusive as to all pending claims at the date of their installation. Claims which shall not be presented within the twelve months herein prescribed will be disregarded by both governments, and considered invalid.

In the event that upon the termination of the labors of said commission, there should remain pending one or more cases before the umpire awaiting his decision, the said umpire is authorized to make his decision and transmit the same to the commissioners, who shall issue their certificates thereupon and communicate [them] to each government, which shall be held binding and conclusive; provided, however, that his decision shall be given within thirty days from the termination of the labors of the commission, and after the expiration of the said thirty days any decision made shall be void and of no effect.

ARTICULO 5º.

Los fallos de esta comision y en su caso los del árbitro decidirán definitiava é irrevocablemente todas las reclamaciones pendientes el dia de su instalacion. Las que no se presenten dentro de los doce meses aqui prescritos, serán desechadas por ambos gobiernos y se considerán nulas.

En caso de que, al concluirse los trabajos de dicha comision, quedaren pendientes una ó mas decisiones del árbitro, se autoriza á este para pronunciar su fallo y enviarlo á los comisionados, que lo certificarán y transmitirán á cada gobierno, teniéndose como obligatorio é irrevocable. Sin embargo, el árbitro deberá dar sus decisiones dentro de los treinta dias siguientes al término de las labores de la comision, quedando sin valor ni efecto las que pronunciare despues.

ARTICLE 6.

Each government shall pay its own commissioner, and shall pay one-half of

ARTICULO 6º.

Cada gobierno costeará su respectivo comisionado, pagará la mitad de lo que

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what may be due the umpire and secretary, and one-half the incidental expenses of the commission.

se asigne al árbitro y al secretario, y tambien satisfará los gastos accidentales de la comision.

ARTICLE 7.

ARTICULO 7º.

The present convention shall be ratified and the ratification exchanged, so soon as may be practicable, in the city of Caracas.

In testimony whereof the plenipotentiaries have signed this convention and hereunto affixed the seals of the ministry of foreign relations of the United States of Venezuela, and of the legation of the United States of America, in Caracas, this twenty-fifth day of April, in the year one thousand eight hundred and sixty-six.

The minister resident of the United States of America,

[L. S.] E. D. CULVER.

Minister of foreign relations of the United States of Venezuela,

[L. S.] RAFAEL SEIJAS.

La presente convencion será ratificada, y sus ratificaciones se cangearán, en la ciudad de Carácas cuanto ántes fuere posible.

En fé de lo cual los plenipotenciarios han firmado esta convencion y selládola con los sellos del ministerio de relaciones exteriores de los Estados Unidos de Venezuela y de la legacion de los Estados Unidos de América en Carácas á viente y cinco de Abril de mil ochocientos sesenta y seis.

El ministro de relaciones exteriores de los Estados Unidos de Venezuela,

[L. S.] RAFAEL SEIJAS.

El ministro residente de los Estados Unidos de América,

[L. S.] E. D. CULVER.

And whereas the said convention has been duly ratified on both parts, and the respective ratifications of the same were exchanged at Caracas on the tenth day of April last:

Now, therefore, be it known that I, Andrew Johnson, President of the United States of America, have caused the said convention to be made public, to the end that the same and every clause and article thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the city of Washington the twenty-ninth day of May, in the year of our Lord one thousand eight hundred and sixty-seven, and of the independence of the United States of America the ninety-first.

[SEAL.] ANDREW JOHNSON.

By the President:

WILLIAM H. SEWARD,
Secretary of State.

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MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

COMMUNICATING

A copy of a treaty between the United States and his Majesty the Emperor of all the Russias, and recommending an appropriation for the payment for the territory ceded to the United States, and legislation for the occupation and government of the same.

JULY 16, 1867.—Read; ordered that so much of the message as recommends an appropriation for payment for said territory be referred to the Committee on Appropriations; and that so much as relates to the occupation and government of the territory be referred to the Committee on Territories.

To the Senate and House of Representatives:

I transmit to Congress a copy of a treaty between the United States and his Majesty the Emperor of all the Russias, the ratifications of which were exchanged in this city on the 20th day of June last.

This instrument provides for a cession of territory to the United States, in consideration of the payment of seven million two hundred thousand dollars in gold. The attention of Congress is invited to the subject of an appropriation for this payment, and also to that of proper legislation for the occupation and government of the territory as a part of the dominion of the United States.

ANDREW JOHNSON.

WASHINGTON, *July* 6, 1867.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a treaty between the United States of America and his Majesty the Emperor of all the Russias was concluded and signed by their respective plenipotentiaries, at the city of Washington, on the thirtieth day of March last, which treaty, being in the English and French languages, is, word for word, as follows:

The United States of America and his Majesty the Emperor of all the Russias, being desirous of strengthening, if possible, the good understanding which exists between them, have, for that purpose, appointed as their plenipotentiaries—the President of the United States: William H. Seward, Secretary of State; and his Majesty the Emperor of all the Russias: the Privy Counsellor Mr. Edward de Stoeckl, his envoy extraordinary and minister plenipotentiary to the United States.

And the said plenipotentiaries, having exchanged their full powers, which were found to be in due form, have agreed upon and signed the following articles:

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ARTICLE I.

His Majesty the Emperor of all the Russias agrees to cede to the United States, by this convention, immediately upon the exchange of the ratifications thereof, all the territory and dominion now possessed by his said Majesty on the continent of America and in the adjacent islands, the same being contained within the geographical limits herein set forth, to wit: The eastern limit is the line of demarcation between the Russian and the British possessions in North America, as established by the convention between Russia and Great Britain, of February 28–16, 1825, and described in Articles III and IV of said convention, in the following terms:

"Commencing from the southernmost point of the island called Prince of Wales Island, which point lies in the parallel of 54 degrees 40 minutes north latitude, and between the 131st and the 133d degree of west longitude, (meridian of Greenwich,) the said line shall ascend to the north along the channel called Portland channel, as far as the point of the continent where it strikes the 56th degree of north latitude; from this last-mentioned point, the line of demarcation shall follow the summit of the mountains situated parallel to the coast as far as the point of intersection of the 141st degree of west longitude, (of the same meridian;) and, finally, from the said point of intersection, the said meridian line of the 141st degree, in its prolongation as far as the Frozen ocean.

"IV. With reference to the line of demarcation laid down in the preceding article, it is understood—

"1st. That the island called Prince of Wales Island shall belong wholly to Russia," (now, by this cession, to the United States.)

"2d. That whenever the summit of the mountains which extend in a direction parallel to the coast from the 56th degree of north latitude to the point of intersection of the 141st degree of west longitude shall prove to be at the distance of more than ten marine leagues from the ocean, the limit between the British possessions and the line of coast which is to belong to Russia, as above mentioned, (that is to say, the limit to the possessions ceded by this convention,) shall be formed by a line parallel to the winding of the coast, and which shall never exceed the distance of ten marine leagues therefrom."

The western limit within which the territories and dominion conveyed are contained passes through a point in Behring's straits on the parallel of sixty-five degrees thirty minutes north latitude, at its intersection by the meridian which passes midway between the islands of Krusenstern, or Ignalook, and the island of Ratmanoff, or Noonarbook, and proceeds due north, without limitation, into the same Frozen ocean. The same western limit, beginning at the same initial point, proceeds thence in a course nearly southwest, through Behring's straits and Behring's sea, so as to pass midway between the northwest point of the island of St. Lawrence and the southeast point of Cape Choukotski, to the meridian of one hundred and seventy-two west longitude; thence, from the intersection of that meridian, in a southwesterly direction, so as to pass midway between the island of Attou and the Copper island of the Kormandorski couplet or group in the North Pacific ocean, to the meridian of one hundred and ninety-three degrees west longitude, so as to include in the territory conveyed the whole of the Aleutian islands east of that meridian.

ARTICLE II.

In the cession of territory and dominion made by the preceding article are included the right of property in all public lots and squares, vacant lands, and all public buildings, fortifications, barracks, and other edifices which are not private individual property. It is, however, understood and agreed that the

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churches which have been built in the ceded territory by the Russian government shall remain the property of such members of the Greek Oriental Church resident in the territory as may choose to worship therein. Any government archives, papers, and documents relative to the territory and dominion aforesaid, which may be now existing there, will be left in the possession of the agent of the United States; but an authenticated copy of such of them as may be required will be, at all times, given by the United States to the Russian government, or to such Russian officers or subjects as they may apply for.

ARTICLE III.

The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within three years; but if they should prefer to remain in the ceded territory they, with the exception of uncivilized native tribes, shall be admitted to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty, property, and religion. The uncivilized tribes will be subject to such laws and regulations as the United States may, from time to time, adopt in regard to aboriginal tribes of that country.

ARTICLE IV.

His Majesty the Emperor of all the Russias shall appoint, with convenient despatch, an agent or agents for the purpose of formally delivering to a similar agent or agents appointed on behalf of the United States, the territory, dominion, property, dependencies, and appurtenances which are ceded as above, and for doing any other act which may be necessary in regard thereto. But the cession, with the right of immediate possession, is nevertheless to be deemed complete and absolute on the exchange of ratifications, without waiting for such formal delivery.

ARTICLE V.

Immediately after the exchange of the ratifications of this convention, any fortifications or military posts which may be in the ceded territory shall be delivered to the agent of the United States, and any Russian troops which may be in the territory shall be withdrawn as soon as may be reasonably and conveniently practicable.

ARTICLE VI.

In consideration of the cession aforesaid, the United States agree to pay at the treasury in Washington, within ten months after the exchange of the ratifications of this convention, to the diplomatic representative or other agent of his Majesty the Emperor of all the Russias, duly authorized to receive the same, seven million two hundred thousand dollars in gold. The cession of territory and dominion herein made is hereby declared to be free and unencumbered by any reservations, privileges, franchises, grants, or possessions, by any associated companies, whether corporate or incorporate, Russian or any other; or by any parties except merely private individual property-holders; and the cession hereby made conveys all the rights, franchises, and privileges now belonging to Russia in the said territory, or dominion, and appurtenances thereto.

ARTICLE VII.

When this convention shall have been duly ratified by the President of the United States, by and with the advice and consent of the Senate, on the one part, and on the other by his Majesty the Emperor of all the Russias, the ratifi-

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cations shall be exchanged at Washington within three months from the date hereof, or sooner, if possible.

In faith whereof, the respective plenipotentiaries have signed this convention, and thereto affixed the seals of their arms.

Done at Washington, the thirtieth day of March, in the year of our Lord one thousand eight hundred and sixty-seven.

WILLIAM H. SEWARD. [L. S.]
EDOUARD DE STOECKL. [L. S.]

And whereas the said treaty has been duly ratified on both parts, and the respective ratifications of the same were exchanged at Washington on this twentieth day of June by William H. Seward, Secretary of State of the United States, and the Privy Counsellor Edouard de Stoeckl, the envoy extraordinary of his Majesty the Emperor of all the Russias, on the part of their respective governments:

Now, therefore, be it known that I, Andrew Johnson, President of the United States of America, have caused the said treaty to be made public, to the end that the same and every clause and article thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the city of Washington, this twentieth day of June, in the year of our Lord one thousand eight hundred and sixty-seven, and of the independence of the United States the ninety-first.

ANDREW JOHNSON. [L. S.]

By the President:
WILLIAM H. SEWARD,
Secretary of State.

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LETTER

OF THE

SECRETARY OF THE TREASURY,

COMMUNICATING,

In compliance with a resolution of the Senate of the 16th instant, information in relation to the means adopted for the payment of the bounties provided for by the act of July 28, 1866.

JULY 19, 1867.—Read, ordered to lie on the table and be printed.

TREASURY DEPARTMENT, *July* 18, 1867.

SIR: I have the honor to acknowledge the receipt of a resolution of the Senate of the 16th instant, as follows:

"*Resolved*, That the Secretary of War and the Secretary of the Treasury be instructed to inform the Senate whether any means can be adopted by their respective departments, or either of them, to expedite the payment of the bounties provided by the act approved July 28, 1866."

In reply to the resolution, I transmit a copy of the report made by the Second Comptroller and the Second Auditor in relation to the subject of it, they being the officers charged with the adjustment of the bounty claims.

The treasury is prepared to pay the claims as fast they are adjusted.

I am, sir, very respecfully,

HUGH McCULLOCH,
Secretary of the Treasury.

Hon. B. F. WADE,
President of the Senate.

SECOND AUDITOR'S OFFICE,
Washington, July 17, 1867.

SIR: In reply to your request for information, whether any means can be adopted to expedite the payment of the bounties provided by the act approved July 28, 1866, I have the honor to report, that every possible effort has been made by this office to hasten the settlement of this class of claims, and that there are as many clerks engaged in the examination of rolls and final statements as can be safely and profitably employed.

The rolls are vouchers in paymasters' accounts, deposited here for settlement, and are used in the settlement of the claims of heirs of deceased soldiers—of discharged colored troops—of soldiers who have lost their discharges, and for other settlements, besides furnishing information to the Commissioner of Pensions, and to the Paymaster General, to enable him to pay the bounty to white discharged soldiers. They are in constant use, and there are, upon an average,

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thirty thousand rolls at the Comptroller's, with accounts which have been settled in this office and sent there for revision and confirmation.

During the year ending June 30, 1867, there were settled in this office eighty-six thousand six hundred and eighty-one claims of soldiers, or their heirs, one hundred and twenty-five thousand six hundred and forty certificates furnished, after examination of the rolls, to the Paymaster General, and eight thousand five hundred and sixty to the Commissioner of Pensions, equivalent to the settlement of two hundred and twenty thousand eight hundred and eighty-one claims, involving the use of the rolls.

There are now forty-five clerks constantly employed in searching rolls and preparing certificates for the Paymaster General and the Commissioner of Pensions.

During the months of last April, May, and June, the number of certificates furnished to the Paymaster General was thirty-eight thousand and eighty, being an average of twelve thousand six hundred and ninety-three per month.

The labor of searching for rolls would be diminished, and injury to them from too frequent use might be avoided in a measure and more certificates be furnished, if the calls from the Paymaster General were made to embrace a larger number of soldiers from any single company and regiment than they now do. Whether it is practicable, or not, for him to do so, is a question about which I am not competent to express an opinion.

The number of claims of heirs and discharged soldiers received in this office for settlement during the year ending June 30, 1867, was two hundred and thirty-five thousand four hundred and thirty-one, a very large proportion of which were based upon the resolution of July 26, 1866, granting bounty to colored soldiers, and the act of July 28, 1866, giving additional bounty to heirs. It became necessary to reduce the ordinary settling force of the office to take charge of the registering, briefing, filing and examination of this large accession of claims, and as more than half of them were imperfectly prepared, the labor has been largely increased, and it was not until June that it was possible to commence their settlement.

In the course of a couple of months they will probably be settled at the rate of fifteen thousand per month, and if possible the number of settlements will be increased.

I have the honor to be, very respectfully, your obedient servant,

E. B. FRENCH,
Auditor.

The SECRETARY OF THE TREASURY.

SECOND COMPTROLLER'S OFFICE,
Washington, July 17, 1867.

These claims are now being settled at this office as fast as they are received from the Auditor. If this settlement is to be expedited, an additional number of clerks and additional rooms, in which they may work, will be required by this bureau.

J. W. SMITH,
Acting Comptroller.

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40TH CONGRESS, 1st Session. } SENATE. { Ex. DOC. No. 19.

LETTER

OF

THE SECRETARY OF WAR,

COMMUNICATING,

In compliance with a resolution of the 16th instant, information in relation to the means adopted to expedite the payment of bounties provided by the act of July 28, 1866.

JULY 19, 1867.—Read, ordered to lie on the table and be printed.

WAR DEPARTMENT,
Washington City, July 19, 1867.

SIR: In reply to the Senate's resolution of inquiry, of July 16, whether any means can be adopted by the War Department to expedite the payment of bounties provided by the act of July 28, 1866, I have the honor to transmit herewith a report of July 18 by the Paymaster General on the subject.

Your obedient servant,

EDWIN M. STANTON,
Secretary of War.

Hon. B. F. WADE,
President of the Senate.

WAR DEPARTMENT, PAYMASTER GENERAL'S OFFICE,
Washington, July 18, 1867.

SIR: A resolution of the Senate dated the 16th instant, instructing the Secretaries of War and of the Treasury to inform the Senate whether "any means can be adopted by their respective departments, or either of them," to expedite the payment of bounties provided by the act of July 28, 1866, has been referred to me for report.

As no bounty act of the date named in the resolution is known to this office, it is assumed that the inquiry relates to the additional bounty authorized by the act of July 28, 1866.

In my report of the 11th instant in answer to House resolution of the 9th instant, (substantially the same as this resolution of the Senate,) I had the honor to state my conviction that so far as pertains to this bureau no further legislative action is needed as a means of expediting the payment of bounties. I beg leave, therefore, to repeat that report as answer to this inquiry of the Senate:

"So far as relates to this bureau I am of opinion that no further legislation is necessary. Paymasters and clerks, as many as can successfully engage in the work of examining and paying the claims for additional bounty, are dili-

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gently and industriously so employed. Any change in the system now in favorable progress I feel sure would tend rather to retard than facilitate the accomplishment of the desired end.

"It is proper to explain, that the rolls to which reference must be had for the authentication of each bounty claim have passed from the custody of this office to that branch of the Treasury Department, the office of the Second Auditor, to which they finally pertain, for the examination and settlement of disbursing officers' accounts.

"This bureau is therefore dependent upon the Auditor for essential facts to be derived from the rolls in his possession before claims can be finally determined and paid. The payments follow just as rapidly as the answers to our inquiries are received from the Auditor.

"With the present facilities of this office, the number paid monthly could be largely increased if it were possible for the Second Auditor to supply us with needed data.

"Whether that officer with an increase of his clerical force could hasten the work in his office, or whether he has not already as many clerks engaged at the special matter of furnishing data to us, as, from its nature, can be profitably so employed, are questions properly to be answered by himself."

I have the honor to be, sir, very respectfully, your obedient servant,

B. W. BRICE,
Paymaster General.

Hon. E. M. STANTON,
Secretary of War.

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40TH CONGRESS, 1st Session. } SENATE. { EX. DOC. No. 20.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

COMMUNICATING,

In compliance with a resolution of the Senate of the 8th instant, correspondence relating to recent events in Mexico.

JULY 19, 1867.—Read, and referred to the Committee on Foreign Relations; ordered to be printed.

To the Senate of the United States:

In compliance with the resolution of the Senate of the 8th instant, requesting me to furnish to that body copies of any correspondence on the files of the Department of State relating to any recent events in Mexico, I communicate a report from the Secretary of State, with the papers accompanying it.

ANDREW JOHNSON.

WASHINGTON, *July* 18, 1867.

DEPARTMENT OF STATE,
Washington, July 18, 1867.

The Secretary of State, to whom was referred the resolution of the Senate of the 8th instant, requesting the President, "if in his opinion not incompatible with the public interest, to furnish to the Senate copies of any correpondence on the files of the department, relating to any recent events in Mexico," has the honor to lay before the President the papers mentioned in the subjoined list.

Respectfully submitted:

WILLIAM H. SEWARD.

The PRESIDENT.

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No 1.

CAPTURE, TRIAL, AND EXECUTION OF FERDINAND MAXIMILIAN.

CORRESPONDENCE WITH LEGATION OF MEXICO.

1. Mr. Seward to Mr. Romero (with an enclosure) ..... April 6, 1867.
2. Mr. Romero to Mr. Seward (with enclosure returned) ..... April 6, 1867.
3. Mr. R. S. Diaz to Mr. Romero ..... April 30, 1867.
4. Mr. Seward to Mr. Romero ..... May 4, 1867.
5. Mr. Romero to Mr. Seward ..... May 13, 1867.
6. Mr. Seward to Mr. Romero ..... May 15, 1867.
7. Memorandum from Mr. Romero, (with an enclosure) ..... May 20, 1867.
7½ Mr. Seward to Mr. Romero ..... July 17, 1867.
8. Mr. Seward to Mr. Romero (with an enclosure) ..... July 27, 1867.
9. Mr. Romero to Mr. Seward ..... July 27, 1867.
10. Mr. Romero to Mr. Seward (with an enclosure) ..... July 28, 1867.
11. Mr. Seward to Mr. Romero ..... June 13, 1867.
12. Mr. Romero to Mr. Seward (with an enclosure) ..... May 30, 1867.
13. Mr. Seward to Mr. Romero ..... May 31, 1867.
14 Mr. Romero to Mr. Seward (with two enclosures) ..... June 4, 1867.
15. Mr. Seward to Mr. Romero ..... June 10, 1867.
16. Memorandum from Mr. Seward ..... June 15, 1867.
17. Mr. Romero to Mr. Seward (with an enclosure) ..... June 19, 1867.
18. Mr. Seward to Mr. Romero ..... June 21, 1867.
19. Mr. Seward to Mr. Romero ..... June 21, 1867.
20. Mr. Romero to Mr. Seward ..... June 21, 1867.
21. Mr. F. W. Seward to Mr. Romero ..... June 22, 1867.
22. Mr. Romero to Mr. F. W. Seward ..... June 22, 1867.
23. Mr. Romero to Mr. Lerdo de Tejada (three telegrams of 15th, 21st, and 22d June, 1867.)
24. President Juarez to Mr. Romero (May 15,) telegram communicated to Mr. Seward ..... June 22, 1867.
25. Memorandum from Mr. Romero ..... July 2, 1867.
26. Mr. Seward to Mr. Romero ..... July 3, 1867.
27. Mr. Romero to Mr. Seward (with 26 enclosures) ..... July 3, 1867.
28. Mr. Romero to Mr. Seward (with 33 enclosures) ..... July 7, 1867.
29. Memorandum ..... May 29, 1867.
30. Memorandum ..... June 10, 1867.
31. Mr. Romero to Mr. Seward (with 3 enclosures) ..... July 12, 1867.
32. Mr. Seward to Mr. Romero ..... July 19, 1867.

CORRESPONDENCE WITH THE LEGATION OF AUSTRIA.

1. Mr. Wydenbruck to Mr. Seward ..... April 5, 1867.
2. Same to same (memorandum) ..... April 6, 1867.
3. Mr. Seward to Mr. Wydenbruck (with an enclosure) ..... April 6, 1867.
4. Mr Wydenbruck to Mr. Seward ..... April 6, 1867.
5. Mr. Hotze to Mr. Wydenbruck ..... April 4, 1867.
6. Mr. Wydenbruck to Mr. Seward (with an enclosure) ..... May 28, 1867.
7. Mr. Seward to Mr. Wydenbruck ..... May 28, 1867.
8. Mr. Beust to Mr. Wydenbruck. ..... May 29, 1867.
9. Mr. Seward to Mr. Wydenbruck ..... June 1, 1867.
10. Mr Campbell to Mr. Seward. ..... May 28, 1867.
11. Mr. Plumb to Mr. Seward ..... May 26, 1867.
12. Same to same ..... May 31, 1867.
13. Mr. Wydenbruck to Mr. Seward ..... June 1, 1867.

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14. Same to same.....June 12, 1867.
15. Same to same.....June 17, 1867.
16. Mr. Wydenbruck to Mr. Seward.....June 20, 1867.
17. Mr. F. W. Seward to Mr. Wydenbruck.....June 21, 1867.
18. Mr. Campbell to Mr. F. W. Seward.....June 17, 1867.
19. Mr. Seward to Mr. Wydenbruck.....June 21, 1867.
20. Mr. Wydenbruck to Mr. Seward.....June 21, 1867.
21. Mr. Wydenbruck to Mr. F. W. Seward.....June 21, 1867.
22. Mr. F. W. Seward to Mr. Wydenbruck.....June 22, 1867.
23. Same to same.....June 23, 1867.
24. Mr. Wydenbruck to Mr. Seward.....June 29, 1867.
25. Same to same.....June 30, 1867.
26. Mr. Seward to Mr. Wydenbruck.....July 1, 1867.
27. Same to same.....July 3, 1867.
28. Mr. Wydenbruck to Mr. Seward.....July 3, 1867.
29. Same to same.....July 3, 1867.
30. Mr. Seward to Mr. Wydenbruck.....July 5, 1867.
31. Mr. Wydenbruck to Mr. Seward.....July 8, 1867.
32. Mr. Seward to Mr. Wydenbruck.....July 8, 1867.
33. Mr. Wydenbruck to Mr. Seward.....July 8, 1867.
34. Mr. Seward to Mr. Wydenbruck.....July 11, 1867.
35. Mr. Seward to Mr. Wydenbruck.....July 12, 1867.

MISCELLANEOUS.

Mr. Otterbourg to Mr. Seward.....Feb. 16, 1867.
Mr. Savage to Mr. Seward.....May 25, 1867.
Mr. Dix to Mr. Seward.....June 1, 1867.
Mr. Seward to Mr. Dix.....June 1, 1867.
Mr. Otterbourg to Mr. Seward.....June 21, 1867.
Commander Roe to Secretary Welles.....June 25, 1867.
Mr. Ulrich to Mr. Seward.....June 26, 1867.
Same to same.....June 27, 1867.

No. 2.

VISIT OF SANTA ANA TO VERA CRUZ AND SISAL—HIS ARREST.

CORRESPONDENCE WITH LEGATION OF MEXICO.

1. Mr. Romero to Mr. Lerdo (with an enclosure).....Nov. 30, 1866.
2. Mr. Seward to Mr. Romero (with an enclosure).....June 14, 1866.
3. Mr. Romero to Mr. Seward.....June 14, 1866.
4. Mr. Romero to Mr. F. W. Seward (with an enclosure).....June 24, 1866.
5. Mr. Seward to Mr. Romero.....July 1, 1866.
6. Mr. Romero to Mr. Seward (with 11 enclosures.).....July 4, 1866.
7. Memorandum from Mr. Romero.....July 8, 1866.
8. Mr. Seward to Mr. Romero.....July 10, 1866.
9. Mr. Seward to Mr. Romero (with an enclosure).....July 13, 1866.
10. Mr. Romero to Mr. Seward.....July 13, 1866.

MISCELLANEOUS.

Mr. Saulnier to Mr. Seward.....June 8, 1867.
Same to same.....June 12, 1857.
Mr. Seward to Mr. Saulnier.....July 1, 1867.
Commander Roe to Secretary Welles.....June 13, 1867.

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Mr. Savage to Mr. Seward.....June 17, 1867.
Same to same.....June 22, 1867.
Mr. Naphegyi to Mr. Seward.....July 6, 1867.
Mr. Welles to Mr. Seward.....July 8, 1867.
Mr. Naphegyi to Mr. F. W. Seward.....July 10, 1867.
Memorandum.....July 12, 1867.

No. 3.

RECENT EVENTS IN MEXICO.

CORRESPONDENCE WITH LEGATION OF MEXICO.

1. Mr. Romero to Mr. Seward.....January 5, 1867.
2. Mr. Romero to Mr. Seward (with 7 enclosures).....January 26, 1867.
3. Mr. Seward to Mr. Romero.....March 1, 1867.
4. Mr. Romero to Mr. Seward.....January 29, 1867.
5. Mr. Romero to Mr. Seward.....January 31, 1867.
6. Mr. Romero to Mr. Seward (with an enclosure).....February 1, 1867.
7. Mr. Romero to Mr. Seward (with enclosures).....February 5, 1867.
8. Mr. Romero to Mr. Seward (with an enclosure).....February 10, 1867.
9. Mr. Seward to Mr. Romero.....March 1, 1867.
10. Mr. Seward to Mr. Romero.....February 22, 1867.
11. Mr. Romero to Mr. Seward.....February 22, 1867.
12. Mr. Romero to Mr. Seward (with 13 enclosures).....March 16, 1867.
13. Mr. Seward to Mr. Romero.....March 25, 1867.
14. Mr. Romero to Mr. Seward (with 6 enclosures).....March 23, 1867.
15. Mr. Seward to Mr. Romero.....April 1, 1867.
16. Memorandum from Mr. Seward.....March 27, 1867.
17. Memorandum from Mr. Romero.....March 28, 1867.
18. Mr. Romero to Mr. Seward (with 9 enclosures).....March 28, 1867.
19. Mr. Seward to Mr. Romero.....April 14, 1867.
20. Mr. Romero to Mr. Seward (with 2 enclosures).....April 4, 1867.
21. Mr. Romero to Mr. Seward.....April 4, 1867.
22. Mr. Seward to Mr. Romero.....May 4, 1867.
23. Mr. Romero to Mr. Seward.....May 4, 1867.
24. Mr. Romero to Mr. Seward (with an enclosure).....June 4, 1867.
25. Mr. Seward to Mr. Romero.....June 11, 1867.
26. Mr. Romero to Mr. Seward (with an enclosure).....June 14, 1867.
27. Mr. Seward to Mr. Romero.....June 15, 1867.
28. Mr. Romero to Mr. Seward (with an enclosure).....June 15, 1867.
29. Memorandum from Mr. Romero.....July 15, 1867.
30. Mr. Romero to Mr. Seward (with an enclosure).....July 12, 1867.

MISCELLANEOUS.

Mr. Chase to Mr. F. W. Seward.....July 17, 1866.
Notice from the French legation.....July 8, 1867.
Mr. Chase to Mr. Seward.....January 17, 1867.
Mr. Murphy to the minister of Mexico in France.....January 29, 1867.
Mr. Otterbourg to Mr. Seward.....February 10, 1867.
Mr. Seward to Mr. Otterbourg.....March 6, 1867.
Mr. Chase to Mr. Seward.....February 15, 1867.
Same to same.....February 27, 1867
Same to same.....February 27, 1867.

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Mr. Chase to Mr. Hunter.....March 6, 1867
Same to same.....March 7, 1867.
Mr. Chase to Mr. F. W. Seward.....March 27, 1867.
Same to same.....March 27, 1867.
Same to same.....April 15, 1867.
Same to same.....May 20, 1867.
Mr. Otterbourg to Mr. F. W. Seward.....April 17, 1867.
Mr. Seward to Mr. Otterbourg.....May 15, 1867.
Mr. Otterbourg to Mr. Seward.....May 25, 1867.
Mr. F. W. Seward to Mr. Otterbourg.....June 17, 1867.
Mr. Saulnier to Mr. Seward.....February 22, 1867.
Same to same.....February 22, 1867.
Same to same.....June 20, 1867.
Mr. F. W. Seward to Mr. Saulnier.....June 24, 1867.
Mr. Saulnier to Mr. Seward.....June 25, 1867.
Mr. Saulnier to Mr. Seward.....June 27, 1867.
Same to same.....July 2, 1867.
Mr. Saulnier to Mr. Seward.....July 12, 1867.
Mr. Otterbourg to Mr. F. W. Seward.....June 21, 1867.
Mr. Otterbourg to Mr. Seward.....June 27, 1867.
Mr. Seward to Mr. Otterbourg.....July 12, 1867.

No. 4.

ENLISTMENTS AT HAVANA.

1. Mr. Romero to Mr. Seward.....March 27, 1867.
2. Mr. Seward to Mr. Romero.....April 1, 1867.
3. Mr. Romero to Mr. Seward (with 6 enclosures).....April 13, 1867.
4. Mr. Seward to Mr. Romero,.....May 14, 1867.

No. 5.

BOUNDARY QUESTION.

1. Mr. Romero to Mr. Seward (with 2 enclosures).....Jan. 9, 1867.
2. Mr. Seward to Mr. Romero (with 1 enclosure).....Feb. 5, 1867.
3. Mr. Romero to Mr. Seward.....Feb. 6, 1867.
4. Mr. Seward to Mr. Stanton.....Feb. 18, 1867.
5. Mr. Seward to Mr. Romero.....Feb. 25, 1867.

No. 6.

STEAMER WILDERNESS.

1. Mrs. Juarez to Mr. Seward.....June 17, 1867.
2. Mr. Seward to Mr. Romero (with 1 enclosure).....June 24, 1867.
3. Mr. Romero to Mr. Seward.....June 25, 1867.
4. Mr. Romero to Mr. Seward (with 1 enclosure).....June 26, 1867.
5. Mr. Seward to Mr. Romero (with 2 enclosures).....June 27. 1867.
6. Mr. Romero to Mr. Seward.....June 27, 1867.

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No. 1.

CORRESPONDENCE WITH MR. ROMERO ON MAXIMILIAN.

Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE, *April* 6, 1867.

Mr. Seward presents his compliments to Mr. Romero, and will thank him to countersign the accompanying passport, and return the same by the bearer.

Mr. Romero to Mr. Seward.

WASHINGTON, *April* 6, 1867.

Mr. Romero presents his compliments to Mr. Seward, and has the pleasure of returning to him, countersigned, the accompanying passport of Frederick Hotze, esq., bearing despatches from the State Department to the President of Mexico.

Hon. WILLIAM H. SEWARD, *&c. &c. &c.*

UNITED STATES OF AMERICA,

No. 525.] *Department of State.*

To all to whom these presents shall come, greeting:

Know ye, that the bearer hereof, Frederick Hotze, esq., is proceeding to Mexico, bearing despatches from this department to the President of that republic. These are therefore to request all whom it may concern to permit him to pass freely, without let or molestation, and to extend to him such friendly aid and protection, as would be extended to citizens and subjects of foreign countries, resorting to the United States, bearing despatches from their governments.

In testimony whereof I, William H. Seward, Secretary of State of the United States of America, have hereunto set and caused the seal of this depart-
[L. S.] ment to be affixed at Washington, this sixth day of April, A. D. 1866, and of the independence of the United States the ninety-first.

WILLIAM H. SEWARD.

[Endorsement.]

LEGACION MEJICANA EN LOS ESTADOS UNIDOS.

Visado en esta legacion con esta fecha. Washington, Abril 6, de 1867.

[L S.] IGNO MARISCAL,
Secretario de la Legacion.

Mr. Diaz to Mr. Romero.

(With compliments of Matias Romero.)

NEW ORLEANS, *April* 30, 1867.

Mr. M. ROMERO,
Mexican Minister, Washington City, D. C:

Miramon dead, imperial forces disbanded, Marquez defeated, Queretaro taken, Maximilian hidden.

RAMON S. DIAZ.
Mexican Consul.

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Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, May 4, 1867.

The Secretary of State has the honor to thank Mr. Romero for the unofficial copy of the telegram of the 30th ultimo, from the Mexican consul at New Orleans, relating to the late news from Mexico.

Mr. Romero to Mr. Seward.

WASHINGTON, *May* 13, 1867.

MY DEAR Mr. SEWARD: I enclose to you a map* showing the position of the Mexican army around Queretaro, which I received by the last mail from San Luis Potosi.

I am, sir, very truly yours,

M. ROMERO.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, May 15, 1867.

Mr. Seward presents his compliments to Mr. Romero, and has the honor to acknowledge the receipt of Mr. Romero's verbal note of the 13th instant, enclosing a copy of the military position at Queretaro. Mr. Seward thanks very much Mr. Romero's kindness in sending the map to the department.

Mr. Romero to Mr. Seward.

[Memorandum.—Translation.]

MEXICAN LEGATION IN THE UNITED STATES OF AMERICA,
Washington, May 20, 1867.

Mr. Romero called on Mr. Seward to-day to inform him that he received a communication yesterday from his government, enclosing a copy of Mr. Lerdo de Tejada's reply of the 22d of April last, to Mr. Campbell's letter to him from New Orleans on the 6th of the same month, in accordance with instructions from the Department of State, to intercede for the ex-Archduke Ferdinand Maximilian and his partisans in Mexico. A Spanish copy of said reply is appended to this memorandum.

Fearing that the government of the United States might be misinformed in regard to what had occurred in Mexico concerning the shooting of certain persons, Mr. Romero said he was instructed to inform Mr. Seward of the antecedents of the war, of all that had occurred during its existence, and what might be considered the duties of the Mexican government; that although Mr. Romero

*Map retained at Department of State.

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was satisfied that the government of the United States was aware of all, as he had taken particular care to communicate events in writing, even to minuteness, he thought proper, in fulfilment of his instructions, to make the following explanations:

The government of Mexico has not adopted the system of shooting the prisoners it takes from its enemies. Laying aside the question of the right to shoot them under peculiar and aggravating circumstances, such as have occurred during this war, and especially after the departure of the French, up to the present time, they have not been shot from the mere fact that they are fighting against Mexico.

While the French carried on the war, they shot most all the prisoners they captured, either by court-martial, by executing them secretly, or in virtue of the so-called decree of the usurper Maximilian of the 3d of October, 1865. The government of Mexico never desired to make reprisals; on the contrary, it often expressed its willingness to accept a system of exchange, to be extended to all prisoners captured on both sides. The French would never agree to this, and only when they wished to exchange a particular person, would they make application for a partial exchange, which was never refused by the Mexican generals. In the correspondence which Mr. Romero has sent to the Department of State are several cases where the Mexican government treated its prisoners of war with great lenity, particularly French and Belgians.

Mr. Romero has no knowledge of the execution of prisoners of war, except those at San Jacinto, and a few chiefs and officers at Puebla. In regard to the first it is known that the number of prisoners taken at San Jacinto was five or six times as many as were executed, and of course the majority were not executed, and those that were killed were not killed merely because they were making war against Mexico, but because they had committed crimes of all kinds in Zacatecas during the three days they remained there.

In regard to the executions at Puebla, although Mr. Romero has received no official information to confirm them, supposing them to be true, he believes, taking into consideration the well-known integrity of General Diaz, they were visited upon military chieftains who deserved the penalty by the laws of war, as for instance, if, belonging to the army of the republic, they betrayed their flag, and carried their forces over to the enemy. When persons of that sort are captured by the forces they desert, it is not strange they are treated with all the severity of military law common to all nations.

Mr. Lerdo de Tejada to Mr. Campbell.

SAN LUIS POTOSI, MEXICO, *April* 22, 1867.

SIR: Yesterday I had the honor to receive your communication of the 6th from New Orleans.

In it you gave the reasons why you were prevented from presenting your credentials as envoy extraordinary and minister plenipotentiary of the United States of America to the President of the republic of Mexico, and why you remained in New Orleans since December last. The government of the republic regrets that those reasons prevented you from presenting your credentials and commencing official relations, for it would be very agreeable to the government to receive you in your character as representative of the United States.

You also informed me that the satisfaction of the government of the United States at the withdrawal of the French forces from Mexico, and the advance of the government army towards the capital, was disturbed by the report of cruelty to the prisoners of war taken at San Jacinto. You also expressed the desire of the government of the United States, in case the Archduke Maximilian and his partisans were captured, that they would be treated humanely as prisoners of war.

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The enemies of the republic, wishing to injure it as much as possible, were eager to exaggerate facts, and circulate untruthful reports concerning the prisoners in San Jacinto. The greater portion of them were pardoned, and those that were executed by the chiefs of the republican forces were not shot as prisoners of war, but as guilty by the law of nations and by the laws of the republic. They had given themselves up to untold crimes in the city of Zacatecas, because they were fighting as rangers without country or flag, as mercenaries hired to shed the blood of Mexicans who were defending their liberty and their institutions.

No small number of these foreigners taken in San Jacinto were carried to Zacatecas and there treated with as much benevolence as those taken in Jalisco who were not near so guilty.

It has been the constant practice of the government of the republic, and the commanders of its forces, to respect life and treat the French prisoners with great consideration, while they, by supreme command, assassinated the prisoners taken from the republican forces. French prisoners were often set at liberty without being exchanged.

Many of the principal French chiefs had entire towns burned. Inhabitants were murdered by courts-martial, and often unarmend persons were executed from mere suspicion, without form of trial. Boys and old men, unable to bear arms, were ruthlessly butchered; yet the government of the republic and its chiefs did not resort to reprisals, though sufficient provocation was offered, but have always observed a humane conduct, with examples of the greatest generosity. For that reason the republican cause of Mexico has excited the sympathy of all civilized nations.

After the withdrawal of the French forces, the Archduke Maximilian persisted in his useless attempt to shed more Mexican blood. With the exception of two or three cities which he holds by force, he has seen the whole republic rise up against him. Notwithstanding this, he wants to continue his work of ruin and desolation by an aimless war, surrounded by men well known for their robberies and assassinations, and the deepest dyed in crime of any in the republic. When such persons are captured it is not reasonable to suppose they could be considered as simple prisoners of war, for they are responsible to the law of nations and amenable to the laws of the republic.

The government, which has given numerous proofs of its humanitarian principles and of its sentiments of generosity, has also the obligation to consider, according to the circumstances of the cases, what is required by the principles of justice and its duties to the Mexican people.

The government of the republic hopes that, by the justification of its acts, it will preserve the sympathies of th epeople and government of the United States, that have always had the greatest esteem for the people and government of Mexico.

I have the honor to be, your most respectful and obedient servant,

LERDO DE TEJADA.

His Excellency Hon. LEWIS D. CAMPBELL,
Envoy Extraordinary, and Minister Plenipotentiary from the U. S. of America to the U. S. of Mexico, New Orleans, La.

SAN LUIS POTOSI, *April* 22, 1867.

A true copy:

JUAN VALDES,
First Official.

WASHINGTON, *May* 20, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

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Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, July 17, 1867.

SIR: I have had the honor to receive your memorandum of the 20th of May last, in reference to the treatment of prisoners of war, and also a copy of Señor Lerdo de Tejada's reply of the 22d of April last, to Mr. Campbell's note of the 6th of the same month, for which you will be pleased to accept my thanks.

I avail myself of this occasion to renew to you, sir, the assurances of my distinguished consideration.

WILLIAM H. SEWARD.

Señor Don MATIAS ROMERO, &c., &c.,
Washington, D. C.

Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, May 27, 1867.

SIR: I have the honor to inform you that the enclosed telegram has been received this morning from Mr. Plumb, at New Orleans.

I avail myself of this opportunity to renew the assurance of my high consideration.

WILLIAM H. SEWARD.

Señor Don MATIAS ROMERO, &c., &c., &c.

Mr. Plumb to Mr. Seward.

[Telegram.—Received at Department of State, May 27, 1867—9.35 a. m.]

NEW ORLEANS, *May* 26, 1867.

Hon. WM. H. SEWARD:

I have this moment received the following despatch by telegraph via Galveston, dated at Matamoras, May 21:

"I have the honor to transmit the following official letter:

"'SAN LUIS POTOSI, *May* 15.

"'MY ESTEEMED FRIEND: Vive la Patria! (*the republic lives.*) Queretaro has fallen by force of arms this a. m. at 8 oclock. Maximilian, Mejia, Castillo, and Miramon are prisoners.

"'BENITO JUAREZ.

"'General BERRIOZABAL.'

"Yours truly,

"M. B. MARSHALL.

"E. L. PLUMB."

Mr. Romero to Mr. Seward.

[Unofficial.]

MEXICAN LEGATION IN THE UNITED STATES OF AMERICA,
Washington, May 27, 1867.

MY DEAR SIR: I have the honor to acknowledge the receipt of your note of to-day, enclosing for my information copy of a telegram received this morning

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at your department, in which the capture of Queretaro by the troops of the Mexican republic is officially announced.

Allow me, my dear sir, to express to you my sincere thanks for your kind and prompt communication of such important news.

I am, sir, very respectfully, your obedient servant,

M. ROMERO.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

Mr. Romero to Mr. Seward.

[Translation.—Unofficial.]

MEXICAN LEGATION IN THE UNITED STATES OF AMERICA,
Washington, 28th May, 1867.

MY DEAR SIR: I have the honor to remit you a translation in English of various fragments of a letter from General Diaz, chief of the eastern military division of the Mexican republic, dated in Guadalupe Hidalgo, the 3d instant, containing various important details of the recent events that have occurred in Mexico.

In reference to the treatment of the Mexican forces to the prisoners they take from the enemy, I think proper to inform you that in one of the copies of the "Boletin de Oriente," which I received with the letter of General Diaz, dated in Guadalupe Hidalgo, on the 29th of April last, I saw an account of the operations of that general, which, in speaking of the prisoners which he captured in Puebal, it is said as follows :

"The general-in-chief ordered all those taken at Miahuatlan and Carbonera, those at the surrender of Oaxaca, and in the assault on Puebla, and those at the forts of Guadalupe and Loreto, to be set at liberty. Among them were more than six hundred Europeans, of various nations. But this release did not imply a pardon, only the leave to reside where they pleased, till the supreme government should definitely decide what was to be done with them."

I am, sir, your very respectful and obedient servant,

M. ROMERO.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

GUADALUPE HIDALGO, *May* 3, 1867.

MY DEAR FRIEND: When I was besieging Puebla I learned that Marquez was marching upon me with 5,000 men from the city of Mexico. I must candidly confess that at first I hesitated as to the course I should pursue; whether to raise the siege and march to meet Marquez, or await his arrival, or assault the city immediately. I decided on the latter alternative. Success favored the impetuosity of our troops, which, without the necessary training, but moved by their great courage, stormed the fortifications and carried their lines successfully, regardless of the galling fire of their musketry and murderous hand grenades, showered upon us from the balconies and housetops. When the trenches had been carried the defenders of the houses, fearing they might be cut off or attacked in the rear, abandoned them and were made prisoners. The heights in the vicinity were still held by the enemy, but their garrison surrendered on the 4th. I was then free to go and encounter Marquez, which I immediately did on the 5th. The cavalry division harassed him much, barring

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him the road to Vera Cruz, in which direction it seemed he desired to proceed; but he countermarched when about three leagues distant from Huamantla, and declining battle, which I offered him on the heights of the San Diego mill, he took the road leading to Mexico. I continued the pursuit of Marquez, though I deemed it difficult to overtake him, as he had the advantage of one day's march over me. General Escobedo, however, had detached General Guadarrama with a division of cavalry in pursuit, to which other forces operating in the valley of Mexico were added, and I sent him orders to cut off Marquez's retreat to Mexico, which he did so successfully that Marquez was compelled to seek shelter at the hacienda De San Lorenzo. When everything had been prepared to attack him he fled by the road leading from Calpulabpam to Texcoco, and he was completely routed.

The defeat of Marquez occurred on the 10th of April, the fourth anniversary of the Austrian's acceptance of the crown. I was determined to attack Mexico at once, and marched upon it, intending to establish my headquarters at Tacubaya; but General Escobedo having recalled the Guadarrama division, I was obliged to change my plan and come to this place. Soon after my arrival, Father Fischer, Maximilian's confessor, came to make me some unacceptable propositions, which I at once rejected. Then the Prussian Princess Salm-Salm, the wife of one of Maximilian's aides-de-camp, came to see me to solicit a safe-conduct to get into Queretaro, saying she would explain to Maximilian the situation of Mexico, and she had no doubt he would surrender Queretaro. I also rejected this proposition; for, in truth, I have no confidence in such proposals.

Before my arrival in front of the city of Mexico, Portilla, who styles himself the minister of war, offered to surrender the city to me if I would give him personal guarantees; and O'Haran sent me the same proposal, adding that he would deliver Marquez to me provided I spared his own life and gave him a passport to go abroad. The villains are treacherous, even towards each other.

We have now all our batteries planted, which protect the approaches to our works, say some two hundred metres from the enemy's fortifications, and we continue our advances in such a manner that the capital of the republic will shortly be in our possession, either by direct assault or capitulation. Within the city there is no violence or extortion that is not resorted to by Marquez in order to raise money and increase his forces. The foreign merchants have all closed their establishments, and are now under the protection of their respective ministers, who have entered their protests against the acts of Marquez; and the newspapers of yesterday state that he was about to issue a severe order against them. The diplomatic corps, it seems, is desirous of leaving the city and going to Tacubaya. As a matter of course, I shall not recognize them in their official character, but as private individuals. I will not prevent them doing so.

Our present situation is an excellent one, since only three places—Mexico, Queretaro and Vera Cruz—are left the Austrian, and these are all closely besieged. Within this month I expect all will be decided in favor of the republic. Distrust and dismay are rife among the traitors; no encounter or skirmish takes place in which they are not worsted, even when they have the advantage of numbers. This increases the *morale* of our soldiers, inspiring them with confidence in every battle, in which our half naked and destitute recruits have vanquished the well trained and better provided troops of the Austrian.

General Bazaine, through a third party, offered to surrender to me the cities which they occupied, and also deliver Maximilian, Marquez, Miramon, &c., into my hands, provided I would accede to a proposal which he made to me, and which I rejected, as I deemed it not very honorable. Another proposition was also made me, by authority of Bazaine, for the purchase of six thousand muskets and four million percussion caps; and if I had desired it he would have sold me both guns and powder, but I declined to accept it. The intervention

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and its results have opened our eyes, and hereafter we shall be more cautious in treating with foreign powers; particularly with those of Europe, but especially so with France.

PORFIRIO DIAZ.

Hon. MATIAS ROMERO, *&c., &c., Washington.*

WASHINGTON, *May* 28, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, June 13, 1867.

SIR: I have the honor to acknowledge the receipt of your note of the 28th May last, enclosing a translation of extracts from a letter to you from General Diaz, containing details of recent events in Mexico.

While thanking you for the information thus communicated, I improve the occasion to tender to you the assurance of my high consideration.

WILLIAM H. SEWARD.

Señor Don MATIAS ROMERO, *&c.. &c., &c.*

Mr. Romero to Mr. Seward.

[Unofficial.]

WASHINGTON, *May* 30, 1867.

MY DEAR SIR: In compliance with your request of yesterday, I enclose to you copy of a telegram from General Escobedo to General Diaz, confirming the capture of Queretaro and Maximilian, which I have just received by the way of Havana.

Most truly yours,

M. ROMERO.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

[Enclosure No. 1.—Forwarded from Guadalupe Hidalgo, May 16, 1867.—Received at Vera Cruz (Casa Mata) May 16, 1867.]

General BENAVIDES:

General Escobedo telegraphed to me yesterday as follows from Queretaro:

"REPUBLIC OF MEXICO, ARMY OF OPERATIONS,
"*Headquarters of the Commander-in-Chief.*

"General DIAZ:

"I have just received at this 7½ p. m. the report which I have the honor to transmit to you. Fort La Cruz was surprised and carried this morning at 3 a. m. The enemy was thrown in great disorder, but reformed on the heights of La Campana, our artillery playing upon them during their retreat and increasing their confusion. The entire garrison, with all its material of war, has been captured. Maximilian has surrendered at discretion with his generals, Castillo

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and Mejia. Be pleased to communicate this glorious event to all the governors within the line of your command, with my most cordial felicitations.

"Independence and liberty. In front of Queretaro, May 16, 1867, at 11 a. m.

"M. ESCOBEDO."

And I transmit it to you for your information.

PORFIRIO DIAZ.

Forwarded:

RAFAEL BENAVIDES,
Brigadier General in command.

WASHINGTON, *May* 30, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

Mr. Seward to Mr. Romero.

[Unofficial.]

DEPARTMENT OF STATE,
Washington, May 31, 1867.

DEAR SIR: I have the honor to acknowledge the receipt of your unofficial note of yesterday, enclosing a copy of the telegram from General Escobedo to General Diaz, confirming the capture of Queretaro and of the Prince Maximilian.

I am, sir, truly yours,

WILLIAM H. SEWARD.

Señor Don MATIAS ROMERO, *&c., &c., &c.*

Mr. Romero to Mr. Seward.

[Unofficial.]

WASHINGTON, *June* 4, 1867.

MY DEAR Mr. SEWARD: In accordance with our conversation of this morning, I enclose to you a copy taken from my private letter-book, of a letter addressed by me to Mr. Hiram Barney, on the 31st ultimo, and which was published in yesterday's New York Evening Post.

I am, my dear sir, most truly yours,

M. ROMERO.

Mr. FREDERICK W. SEWARD, *&c., &c., &c.*

[Enclosure No. 1.]

WASHINGTON, *May* 31, 1867.

MY DEAR SIR: I have been favored with your esteemed letters of the 22d and 29th instant. I am very glad to hear that you returned safely and well from your long trip southwards.

Please accept my heartfelt thanks for your kind congratulations on our success in Mexico. It has been, indeed, most complete and gratifying to us. We have accepted no humiliating terms from the French; we are not embarrassed by treaty stipulations with any foreign power which would be likely to give us trouble; all our leading enemies are conquered and in our hands; we will have,

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so to say, a new start in life. We have achieved our victory with our scanty means, without any material assistance (physical aid) from any foreign nation, and having, on the contrary, against us the moral influence of all Europe and the material strength of France and other continental powers. To this gigantic combination we have only been able to oppose the endurance and patriotism of our people, and the steadfast sympathy of the people of the United States.

The remembrance of that enlightened sympathy will be everlasting in Mexico. I will try to do full justice to it in a memorandum of my sojourn in the United States during the war, which I intend to write at some future day, as a contribution to the history of that eventful period.

I have perused with interest your remarks about the way in which we ought to treat the enemies of Mexico. I do not know what disposition President Juarez will make of Maximilian, but I am afraid that if he is allowed to go back to Europe with impunity, he will be a constant menace to the peace of Mexico. He will keep on styling himself, to our shame, *emperor of Mexico;* all dissatisfied Mexicans will keep up an active correspondence with him about his supposed popularity there, and even may induce him to return at some future time, as they did with Iturbide; such of them as can afford it will go over to Austria and form a Mexican court for Maximilian at Miramar, and he will have enough of them to organize a legitimate *Mexican government* there, as the ex-king of the Two Sicilies did at Rome, after he was expelled from Naples; some European powers will keep recognizing him as the *emperor of Mexico,* as Spain did with the ex-king of the two Sicilies; whenever we may be likely to have complications with any European nation, the first step taken by the interested party will be to intrigue with Maximilian, and to threaten us with giving *aid to our lawful sovereign to recover his authority from the hands of the usurpers,* if we decline to accept their terms.

Besides, if Maximilian is pardoned and allowed to go home, nobody in Europe, I am sure, will give us credit for magnanimity, as weak nations are not supposed to be magnanimous; but, on the contrary, it will be said that we did so through fear of public opinion in Europe, and because we would not dare to treat harshly *our sovereign.*

I do not mean by this to say that Maximilian must necessarily be shot; what I mean is that his power to do any further mischief in Mexico must be utterly destroyed before he is allowed to depart.

The United States are a great country and a perfectly well organized power, and therefore they can afford to do what would not be prudent for a country like Mexico.

I have full faith in President Juarez's ability to treat Maximilian in the way most convenient to the interests of Mexico.

We have sacred duties to fulfil towards our own country, and their discharge should be the first consideration that we should have in view in attempting to resolve any question.

In great haste, I am, my dear friend, most truly yours,

M. ROMERO.

Hon. HIRAM BARNEY, *&c., New York City.*

Annexed to Mr. Romero's letter of June 4, 1867.

[Copy of the letter as printed by the New York Evening Post of June 3, 1867.]

"WASHINGTON, *May* 31, 1867.

* * * * * *

"Please accept my heartfelt thanks for your kind congratulations on our success in Mexico. It has been, indeed, most complete and gratifying to us. We have accepted no humiliating terms from the French; we are not embarrassed

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by treaty stipulations with any foreign power which would be likely to give us trouble; all our leading enemies are conquered and in our hands. We will have, so to say, a new start in life. We have achieved our victory with our own scanty means, without assistance from any foreign nation, but on the contrary against the moral influence of all Europe, and the material strength of France and other continental powers. To this gigantic combination we have only been able to oppose the endurance and patriotism of our people, and the steadfast sympathy of the people of the United States. The remembrance of that enlightened sympathy will be everlasting in Mexico. I shall try to do full justice to it in a memorandum of my sojourn in the United States during the war, which I intend to write at some future day, as a contribution to the history of that eventful period. I have perused with interest your remarks about the way in which we ought to treat the enemies of Mexico. I do not know what disposition President Juarez may make of Maximilian, but I am afraid if he is allowed to go back to Europe with impunity, he will be a constant menace to the peace of Mexico. He will continue to style himself, to our shame, emperor of Mexico. All dissatisfied and designing Mexicans will keep up an active correspondence with him about his supposed popularity there, and these people may induce him to return at some future time, as they did with Iturbide. Such of them as can afford it will go over to Austria and form a Mexican court for Maximilian at Miramar, and he will have enough of them to organize a 'Mexican government' there, as the ex-king of the Two Sicilies did at Rome after he was expelled from Naples. Some European powers will continue to recognize him as the emperor of Mexico, as Spain did with the ex-king of the Two Sicilies. Whenever we may have complications with any European nation, the first step taken by the interested party will be to intrigue with Maximilian, and to threaten us with 'giving aid to our lawful sovereign, to recover his authority from the hands of the usurpers,' if we decline to accept terms. Besides, if Maximilian is pardoned and allowed to go home, nobody in Europe, I am sure, will give us credit for magnanimity, as weak nations are not supposed to be magnanimous; but, on the contrary, it will be said that we did so through fear of public opinion in Europe, and because we would not dare to treat harshly an European prince and 'our sovereign.' I do not say by this that Maximilian must necessarily be shot. What I mean is that his power to do further mischief in Mexico must be destroyed before he is allowed to depart. The United States is a great country and a perfectly organized power, and therefore they can afford to do what would not be prudent for a country like Mexico. I have full faith in President Juarez's ability to treat Maximilian in a way most beneficial to the interests of Mexico. We have sacred duties to fulfil toward our own country, and their discharge must be the first consideration that we should have in view in attempting to solve any question.

"In great haste, I am, my dear friend, most truly yours,

"M. ROMERO."

Mr. Seward to Mr. Romero.

[Unofficial.]

DEPARTMENT OF STATE,
Washington, June 10, 1867.

SIR: Your note of the 4th instant, marked unofficial, enclosing copy of your letter of 31st ultimo to the Hon. Hiram Barney, of New York city, has been received.

I am, very truly, your obedient servant,

WILLIAM H. SEWARD.

Señor Don MATIAS ROMERO, &c., &c., &c.

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Memorandum of an interview between Mr Seward and Mr. Romero.

DEPARTMENT OF STATE,
Washington, June 15, 1867.

Mr. Seward said that he had asked an interview with Mr. Romero for the purpose of saying what follows:

Mexican public journals of both the republican and the intervention parties seem to dwell with great pleasure upon any incident or circumstance that can be perverted into a proof that the government of the United States seeks, or is willing to obtain, some undue advantage in Mexico, or some undue influence over the administration there. These expressions do not surprise Mr. Seward, although they are entirely without reason or color of reason. They are an inevitable form of partisan warfare in Mexico.

Mr. Seward is desirous that the administration of President Juarez should know that, besides the Emperor of Austria, the Emperor of France and the Queen of England have severally, and in a confidential manner, appealed to the United States to use any legitimate good offices within their power to avert the execution of the Prince Maximilian. The United States have already expressed themselves on that subject with frankness and profound respect to the government of President Juarez. To reiterate its opinions and wishes in a formal manner, in compliance with the wishes expressed by the Sovereigns of France and Great Britain, would, perhaps, embarrass the government of President Juarez, and might tend to defeat the humane purposes entertained. At the same time Mr. Seward, assuming that the question may still remain an open one, is desirous that President Juarez should be informed of the interest in the person of the Prince Maximilian thus expressed by the last-named European powers.

Mr. Seward also thinks it proper to say that he apprehends no possible contingency in which any European power will attempt either invasion or intervention hereafter in Mexico, or in any other republican nation on the American continent. For this reason he does not think that Mexico has to apprehend any attempt at retaliation by European powers as a consequence of whatsoever extreme decision the Mexican government may make; but at the same time Mr. Seward also thinks that a universal sentiment, favorable, conciliatory, and friendly, towards the republic of Mexico and the other American republics would be likely to follow from such an exercise of clemency and magnanimity as the United States have thought proper to recommend.

Mr. Seward requests Mr. Romero, if compatible with his convictions of duty, to make these sentiments known in a private and confidential manner to the republic of Mexico.

Mr. Romero to Mr. Seward.

WASHINGTON, *June* 19, 1867.

Mr. Romero presents his compliments to Mr. Seward, and has the honor to enclose to him translation of extracts from a letter dated at Casa Mata, on the 7th instant, containing information about the trial of Maximilian.

[Translation.]

CASA MATA, *June* 7, 1867.

MY DEAR SIR:

* * * * * * * *

From the interior we hear that the government ordered a suspension on Maximilian's trial, with a view to give time to Baron Magnus and Maximilian's

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counsel, Don Mariano Riva Palacio, Don Rafael Martinez de la Torre, and Don Eulalio Ortega, who had already left Mexico, to reach Queretaro.

From Tacubaya we hear that the campaign in Mexico should end during this week.

* * * * * * * *

Yours, respectfully,

R. LAINE.

WASHINGTON, *June* 19, 1867.

A true copy:

IGNO. MARISCAL.

Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, June 21, 1867.

The Secretary of State presents his thanks to Mr. Romero for his attention in communicating to him a translation of extracts from a letter dated Casa Mata on the 7th instant, containing information about the trial of Maximilian.

WILLIAM H. SEWARD.

Don MATIAS ROMERO, *&c., &c., &c.*

Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
June 21, 1867.

MY DEAR MR. ROMERO: I am authorized to inform President Juarez that the Emperor of Austria will at once re-establish Prince Maximilian in all his rights of succession as Archduke of Austria, upon Maximilian's release and renouncing forever all projects in Mexico.

Will you oblige me by conveying this message by telegraph to President Juarez for his information, with my request, that if compatible, he will make the same known to Prince Maximilian for his information?

I am, sir, very respectfully, your obedient servant,

WILLIAM H. SEWARD.

Señor MATIAS ROMERO, *&c., &c., &c.*,
Washington, D. C.

Mr. Romero to Mr. Seward.

[Translation.]

WASHINGTON, *June* 21, 1867.

MY DEAR MR. SEWARD: I have had the honor to receive your esteemed letter of this date, in which you communicate to me "that you are authorized to inform President Juarez that the Emperor of Austria will reinstate Prince Maximilian in all his rights to succession as Archduke of Austria, as soon as Maximilian should be set at liberty and should renounce forever all his projects in Mexico," and you besides request me to transmit this message by telegraph to

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President Juarez for his information, together with your recommendation that unless there should be some objection, it should be made known to Maximilian.

I have the honor to say to you in response, that this very day I transmitted the letter mentioned from you to the department of foreign relations of the Mexican republic, my communication having gone by telegraph to New Orleans, where it would reach in time to go on to-morrow by the steamer which plies weekly to Matamoras.

In the same manner I sent on the 15th instant your memorandum of that date, in which you make known to me that the Emperor of the French and the Queen of England had addressed the government of the United States requesting it to interpose its kind offices in favor of Maximilian.

I am, very respectfully, your obedient servant,

M. ROMERO.

Hon. WILLIAM H. SEWARD, &c. &c. &c.

Mr. F. W. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, June 22, 1867.

SIR: This department has this day received authentic information that the imperial family of Austria consents to the eventual reintegration of Prince Maximilian. You will oblige me by communicating this to your government in the same way that similar information was recently communicated.

I avail myself of the occasion, sir, to offer to you a renewed assurance of my very high consideration.

F. W. SEWARD,
Assistant Secretary.

Señor Don MATIAS ROMERO, &c., &c., &c.,
Washington, D. C.

Mr. Romero to Mr. F. W. Seward.

[Translation.]

MEXICAN LEGATION IN THE UNITED STATES OF AMERICA,
Washington, June 22, 1867.

Mr. ASSISTANT SECRETARY OF STATE: I have the honor to acknowledge the reception of your note of this date, informing me that "your department has received authentic information that the imperial family of Austria consents to the eventual reintegration of Prince Maximilian," and requesting me to communicate the fact to my government in the same way that I transmitted recent similar information. In reply, I have the honor to inform you that I sent a translation of your note this day to my government, by telegraph as far as New Orleans, in time for the steamer leaving that port to-day for Matamoras.

I embrace this opportunity to renew to you, sir, the assurances of my distinguished consideration.

M. ROMERO.

FREDERICK W. SEWARD, esq., &c., &c., &c.

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Mr. Romero to Mr. Lerdo de Tejada.

[Telegram to care of Ramon S. Diaz, Mexican Consul at New Orleans.—Translation.]

No. 252.] MEXICAN LEGATION TO THE UNITED STATES OF AMERICA,
Washington, June 15, 1867.

Mr. Seward sent me word this morning that he wished to see me at the Department of State at once, and read to me the memorandum of which I send you a translation, by telegraph, to the care of our consul at New Orleans, to avail of this day's steamer. By mail I send further details.

M. ROMERO.

The MINISTER OF FOREIGN RELATIONS, *Mexico.*

[Memorandum.—Translation from the Spanish.]

DEPARTMENT OF STATE, *June* 15, 1867.

Mr. Seward said he had asked an interview with Mr. Romero for the purpose of telling him the following:

The public papers of Mexico, as well of the republican party as of the interventionists, appear to be engaged with much satisfaction about every incident or circumstance which can be made to appear as proof that the government of the United States seeks or wishes some undue advantage in Mexico, or some undue influence over the republican administration which exists there. These manifestations do not surprise Mr. Seward, although they have no foundation, nor the slightest reason for them. They are nothing more than an unavoidable mode of carrying on the war of parties in Mexico. Mr. Seward desires that the administration of President Juarez may know that besides the Emperor of Austria, the Emperor of France and the Queen of England have had recourse to the United States, each *per se*, and in a confidential manner, to use the good offices which legitimately they can do or which are in their reach to prevent the execution of Prince Maximilian. The United States have already spoken on this matter with frankness and with profound respect to the government of President Juarez.

The reiteration of these opinions and wishes in a formal manner, by acceding to the desires expressed by the sovereigns of France and of Great Britain, would, perhaps, embarrass the government of President Juarez, and might have for result the hindrance of the humane object which is desired. At the same time Mr. Seward, assuming that the question is not at an end, wishes that President Juarez may be informed of the interest which the European powers before named have expressed in favor of Prince Maximilian.

Mr. Seward believes also that he ought to say, that he does not fear any contingency possible, in virtue whereof any European power may attempt to invade or interfere in future in Mexico, or in any other republican nation on this continent. For this reason he does not think that Mexico need fear any attempt at reprisals on the part of any European powers as a consequence of any extreme decision which the Mexican government may take; but at the same time Mr. Seward also believes that a feeling universally favorable, conciliatory, and friendly toward the republic of Mexico, and the other American republics, would probably be the result of the act of clemency and magnanimity which the United States have thought proper to recommend.

Mr. Seward begs Mr. Romero, if it should be compatible with the opinions he holds about his duty, to make these sentiments known in a private and confidential manner to the government of Mexico.

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Mr. Romero to Mr. C. R. S. Diaz.

[Translation.]

MEXICAN LEGATION TO THE UNITED STATES OF AMERICA,
Washington, June 21, 1867.

Send to its destination the following telegram:

M. ROMERO.

C. RAMON S. DIAZ,
In charge of the Mexican Consulate at New Orleans.

No. 262.] MEXICAN LEGATION TO THE UNITED STATES OF AMERICA,
Washington, June 21, 1867.

I send to you by telegraph, and through the consulate of the republic at New Orleans, translation of a note from Mr. Seward, in relation to Maximilian, which was sent to me by the Secretary of State at the moment of setting off from this city with the President.

M. ROMERO.

The MINISTER OF FOREIGN RELATIONS, *Mexico.*

Mr. Seward to Mr. Romero.

[Translated from the Spanish.]

DEPARTMENT OF STATE, *June* 21, 1867.

ESTEEMED Mr. ROMERO: I am authorized to inform President Juarez that the Emperor of Austria will reinstate Prince Maximilian in all his rights of succession as Archduke of Austria, as soon as Maximilian may be set at liberty, and should renounce forever all his projects in Mexico.

You will not fail to do me the favor to transmit this message to President Juarez for his information, with the entreaty on my part that if it should not be inopportune it might be communicated to Prince Maximilian for his information.

Yours, sincerely,

WILLIAM H. SEWARD.

Señor Don MATIAS ROMERO, &c., &c., &c.

Mr. Romero to Mr. C. R. S. Diaz.

[Translation.]

MEXICAN LEGATION TO THE UNITED STATES OF AMERICA,
Washington, June 22, 1867.

Send to Mr. Lerdo by this day's steamer the enclosed communication, and notify him that Mr. Marcus Otterbourg has been appointed minister of the United States at Mexico.

M. ROMERO.

C. RAMON S. DIAZ,
In charge of the Mexican Consulate at New Orleans.

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No. 268.] MEXICAN LEGATION TO THE UNITED STATES OF AMERICA,
Washington, June 22, 1867.

I send you, by telegraph, and through our consulate at New Orleans, translation of a note from Mr. Frederick W. Seward, Assistant Secretary of State, of this date, in relation to Maximilian.

M. ROMERO.

The MINISTER OF FOREIGN RELATIONS, MEXICO.

Mr. F. W. Seward to Mr. Romero.

DEPARTMENT OF STATE, *Washington, June* 22, 1867.

SIR: This department has this day received authentic information that the imperial family of Austria consents to reinstate, eventually, Prince Maximilian. You will do me the favor to communicate this to your government in the same manner that you recently sent to it similar information.

I avail of this opportunity to offer to you, sir, the reiterated assurances of my highest consideration.

FREDERICK W. SEWARD,
Assistant Secretary.

Señor Don MATIAS ROMERO, *&c., &c., &c.*

[Telegram communicated by Mr. Romero to Mr. Frederick W. Seward, on the 22d of June, 1867.—Translation.]

SAN LUIS POTOSI, *May* 15, 1867.

Señor Don MATIAS ROMERO:

MY DEAR FRIEND: Queretaro has been taken by assault at eight o'clock this morning. Maximilian, Mejia, and Castillo surrendered at discretion at the Cerro de la Campana, the last point at which they made resistance. I congratulate you on this important event. Send the annexed to my family.

Your very affectionate friend,

BENITO JUAREZ.

WASHINGTON, *June* 22, 1867

A true copy:

IGNO. MARISCAL.

Sent by Mr. Romero.

Memorandum of a conversation between the Secretary of State of the United States and the Mexican minister.

WASHINGTON, *July* 2, 1867.

Mr. Romero said that he received this morning a letter from the Mexican government, dated on the 7th ultimo, covering copies of all the orders issued by the departments of war and state of Mexico in regard to the persons captured at Queretaro, and the trial of Ferdinand Maximilian, Miguel Miramon, and Tomas Mejia, up to that date. Mr. Romero stated what was the disposition made of those persons, and told Mr. Seward that he would be glad to send him copies of said papers should he desire them.

Mr. Seward said that he may, in the future, beg Mr. Romero for copies of those papers, and others which he might hereafter receive on the same subject.

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Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE, *Washington, July* 3, 1867.

The Secretary of State has the honor to acknowledge the receipt of Mr. Romero's "Memorandum of a conversation between the Secretary of State of the United States and the Mexican minister," and would request an interview with Mr. Romero whenever it may suit Mr. Romero's convenience to call at the department. The Secretary would be pleased to receive copies of the orders referred to in regard to the persons captured at Queretaro.

Mr. Romero to Mr. Seward.

[Translation.]

MEXICAN LEGATION IN THE UNITED STATES OF AMERICA,
Washington, July 3, 1867.

Mr. Romero received, at five o'clock on the evening of this day, the verbal note which the Secretary of State of the United States addressed to him acknowledging the receipt of the memorandum which Mr. Romero transmitted to him yesterday, and requesting him to send to the Department of State copies of the orders issued by the government of Mexico respecting the persons captured in Queretaro, to which he referred in the said memorandum, and furthermore that he should call and see the Secretary of State at his department.

Mr. Romero takes pleasure in acceding to the wishes of Mr. Seward, by enclosing him copies of the documents referred to, and informing him that he will call to-morrow at the Department of State to have the pleasure of seeing him.

The Hon. WILLIAM H. SEWARD, *&c., &c.*

Documents from the ministry of war.

No. 1.

[Telegram from the camp to San Luis Potosi, received on the 15th of May, 1867, at 4 o'clock in the evening.]

To the Citizen Minister of War:

At three o'clock of the morning of this day La Cruz was captured by our forces, which surprised the enemy at that point. Shortly afterwards the garrison of the town was made prisoner, the city occupied by our forces, while the enemy with part of his forces fell back upon the hill of Campana, being successfully beaten by our artillery and thrown into disorder; and finally Maximilian and his generals, Castillo and Mejia, surrendered at discretion, at the said hill, at about eight o'clock this morning.

Be pleased to offer my congratulations to the citizen President on account of this important victory of the national arms.

M. ESCOBEDO.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

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No. 2.

DEPARTMENT OF WAR AND NAVY,
San Luis Potosi, May 15, 1867.

To the Citizen General MARIANO ESCOBEDO:

I have received and submitted to the citizen President of the republic your report of this day, communicated through the telegraph, and in which you report the capture of the position of La Cruz by our forces, and subsequently the complete occupation of Queretaro.

The citizen President of the republic directs me to make known to you, that you may also communicate it to the army under your command, the satisfaction with which he has heard of this important victory, which is due to the valor and sacrifices of the troops of your command, and upon which he congratulates you through me.

MEJIA.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 3.

[Telegram to San Luis Potosi, received May 17, 1867, at 7.30 p. m.]

To the Citizen Minister of War:

When Maximilian was made prisoner yesterday, he requested me to grant him what is embraced in the following points:

1. I have sent in my abdication in the month of March, during the first half of the month. Among the archives captured from me at La Cruz there exists a copy of it, certified and countersigned by the minister. The original was sent to the president of the council of state, José Maria Lacunza, with the order that it should be published when I should be lawfully made prisoner.

2. That if a victim be necessary, that it be visited on my person.

3. That my suite and attendants be well treated for the loyalty with which they have accompanied me through dangers and vicissitudes.

He has also told me that he desires nothing more than to get out of Mexico, and that in consequence he hopes that the necessary escort will be given him to the place of embarcation. I have replied to him that I can grant him nothing, and that what I can do is to report this to the supreme government, as I now do, so that it may determine what is proper.

M. ESCOBEDO.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 4.

[Telegram from Queretaro to San Luis Potosi, received May 30, 1867, at 9 p. m.]

The Citizen Minister of War:

I have already had the honor to inform the citizen President of the republic, through the worthy channel of your department, that eight thousand men of the rank and file were held as prisoners of war, and subject to the disposition of the supreme government; these I ordered should be incorporated in the corps of the

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army under my command. There are also fifteen generals, twenty colonels, and three hundred and fifty-seven persons of the rank of lieutenant colonels down to that of sub-lieutenants, held as prisoners.

Not having up to this moment received an answer upon this subject, the imperious necessity which requires that I should march at once to co-operate in the operations which have already been commenced against the capital of the republic by the citizen General Diaz, under whose orders I have placed myself, and the short distance at which the supreme government is now established from this place, have caused me to decide that Maximilian and the principal leaders and traitors should be sent to-day, under a strong guard, to San Luis Potosi.

Immediately after the occupation of the city of Queretaro, I received pressing requests from every direction urging me to act against the guilty parties. You may rest assured that I would have done so, under the powers granted to me by the ordinance, had I not previously placed them at the disposal of the supreme government. The outrages and cruelties of every kind committed by the foreigners and the traitors, causing through them the ruin of thousands of families, who still groan under orphanage and the most frightful misery, demand the prompt and exemplary punishment of the ill-starred men who have sacrificed everything to their ambitions and caprices.

As the result of the occupation of the city of Queretaro all the people think that their welfare and repose have been secured, and they hope that the supreme government will inaugurate an epoch of peace and prosperity for the republic by making effective the law to the guilty.

ESCOBEDO.

WASHINGTON, *July* 3, 1867.

A true copy :

IGNO. MARISCAL, *Secretary.*

No. 5.

[Telegram.]

SAN LUIS POTOSI, *May* 30, 1867.

To the Citizen General M. ESCOBEDO, *Queretaro :*

In view of your telegraphic dispatch of this day's date, communicating the fact that you had ordered Maximilian and the principal leaders, both foreign and traitors, to be brought to this city, the citizen President of the republic has directed that they remain at Queretaro should they not already have left that city, and that if they have left it that you immediately order their return there, sending the order to that effect by an express courier. He has also ordered that you give the order for the return of the last troops to Queretaro which you informed me left there for Mexico ; that is to say, the second division of infantry and the first of cavalry of the army corps of the north, in order that the number of troops to remain in Queretaro shall not be less than four to five thousand men ; and that you be pleased to await the instructions of the supreme government by remaining in Queretaro, agreeably to what you communicated verbally through a commissioner, who is already on his return to that same city.

Be pleased to inform me of the receipt of this despatch by the telegraph.

MEJIA.

WASHINGTON, *July* 3, 1867.

A true copy :

IGNO. MARISCAL, *Secretary.*

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No. 6.

DEPARTMENT OF WAR AND NAVY, SECTION FIRST.

The city of Queretaro having been occupied by force of arms, you have informed the government that eight thousand men and more than four hundred chiefs and officers of the enemy have been captured, among them Ferdinand Maximilian of Hapsburg, who hitherto has styled himself the emperor of Mexico.

Before dictating any resolution relative to the prisoners, the government has desired to deliberate with the calmness and forbearance which are befitting to the seriousness of the circumstances. It has set aside the resentments which a prolonged war might inspire, desiring only to listen to the voice of its high duties towards the Mexican people. It has considered, not only on the justice with which the laws might be applied, but on the necessity there may be of carrying them out. It has considered to what extent mercy and magnanimity may be exercised, and what limit, justice and the imperative necessity of securing the peace, protecting the legitimate interests, and securing the rights and all the future of the republic will not permit it to trespass. After Mexico had suffered all the evils of a civil war of fifty years duration; when the people had succeeded finally in causing the laws and the constitution of the country to be respected; when they had repressed and conquered certain classes, which, to satisfiy their private interests, sacrifided all interests and all social rights; when peace and tranquillity once more dawned upon the country, in view of the general will of the people and the impotency of those who had desired to subjugate them, then the most reckless of the remnant of the classes which had been put down appealed to the foreigner, hoping with his assistance to gratify their cupidity and revenge. They went abroad to arouse the ambition and turpitude of a foreign monarch, and they came back to the republic having for their only associates foreign intervention and treason.

The Archduke Ferdinand Maximilian of Hapsburg consented to become the principal instrument to carry out this work of iniquity, which has weighed upon the republic for five years, attended by every species of crime and by every kind of calamity. He came to oppress a people; attempted to destroy their constitution and their laws, without any authority than that of a few votes destitute of all weight, and forcibly obtained through the presence and force of foreign bayonets. He came, voluntarily, to assume the most serious responsibilities, which are condemned by the laws of all nations, and which were provided for in several pre-existing laws of the republic, the last of them being that of January 25, 1862, sanctioned, in order to define the offences against the independence and security of the nation; against the law of nations, against the individual guarantees, and against the public peace and order. The flagrant acts in the conduct of Maximilian embrace the greater number of responsibilities specified in that law.

He not only lent himself to serve as the instrument of a foreign intervention, but also to carry on of himself a war of filibusters; he brought other foreigners, Austrians and Belgians, the subjects of nations not at war with the republic. He endeavored to subvert forever the political institutions and the government which the nation had freely given to itself, by assuming to arrogate to himself the supreme power, without other authority than that of the votes of a few persons appointed and delegated by the foreign invader, or who were compelled thereto by the presence and threats of the foreign force.

He disposed of the lives, the rights and the interests of Mexicans, only through the violence of force, and without any lawful authority therefor. He promulgated a decree containing barbarous proscriptions, in order to murder the Mexicans who defended, or who even did not betray those who defended, the independence and institutions of their country.

He caused a very large number of bloody executions to be perpetrated under

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that barbarous decree, and its application to be visited upon distinguished Mexican patriots, even before it could be presumed that they had heard of its promulgation.

He ordered that his own soldiers, or consented, under the false title of chief of the nation, that the soldiers of the foreign invader should set fire to or destroy many and entire towns throughout the whole extent of the Mexican territory, and particularly in the states of Michoacan, Sinaloa, Chihuahua, Coahuila, and Nuevo Leon.

He ordered his own agents, or consented that the agents of the foreigner, should murder many thousands of Mexicans, who were charged with crime for defending their country. And when the armies of the foreign power withdrew, and he saw that the whole republic had risen against him, he still sought to surround himself with some of the most guilty men of the civil war, availing himself of every means of violence and depredation, of death and desolation, to uphold to the last moment his false title, of which he has not attempted to divest himself until he found himself obliged to abandon it, not of his own will, but through force. Among the men who have desired to sustain him to the last moment, thus consummating all the consequences of treason to their country, appear as some of the principal leaders the so-called Generals Don Miguel Miramon and Don Tomas Mejia, who have figured prominently in Queretaro as generals-in-chief to the corps d'armée of Maximilian. Against both of these a grave responsibility was already pending for their having sustained the civil war for many years, without stopping at the most guilty acts, and being always an obstacle and a constant threat against the peace and consolidation of the institutions of the republic.

Article 28 of the law referred to provides that the pains imposed in it be applied to the criminals caught in the very act of committing the crime, (*in flagrante delicto,*) or during any action of war, the identification alone of the persons being required. Both of these circumstances being embraced in the present case, the public knowledge of the facts would suffice to authorize you to proceed agreeably to that article of the law. Nevertheless, the government, desiring to make use of its ample faculties, with the view that there may be the fullest justification for the proceeding in this case, has resolved that with reference to it the trial be proceeded with which the same law provides for in other cases, so that, in this manner, the defences which the accused may wish to make may be heard in this one, and that the judgment be pronounced called for in justice. In virtue whereof, the citizen President of the republic has determined that you adopt the measures for proceeding to the trial of Ferdinand Maximilian, of Hapsburg, and of his so-called generals, Don Miguel Miramon and Don Tomas Mejia, proceeding in the trial with entire accordance to the articles, from the sixth to the eleventh, inclusive, of the law of the 25th of January, 1862, which are those relating to the form of the judicial proceeding.

Respecting the other chiefs and officers or functionaries apprehended in Queretaro, you will be pleased to send lists of them to the government, specifying the classes or occupations which they held among the enemy, in order to be enabled to determine what it is proper to do agreeably to the circumstances of the cases.

Independence and liberty! San Luis Potosi, May 21, 1867.

MEJIA.

The Citizen General of Division MARIANO ESCOBEDO,
Commander-in-chief of the Army Corps of the North, Queretaro.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

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No. 7.

[Telegram from Queretaro to San Luis Potosi.]

To the Citizen Minister of War:

In order to try Ferdinand Maximilian and Mejia, the appointment of a military assessor becomes necessary, which must be appointed by the supreme government. I therefore hope you will be pleased to inform me what person must act in that character during the trial, or otherwise authorize me especially to appoint one.

ESCOBEDO.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 8.

[Telegram from San Luis Potosi, May 25, 1867.]

To the Citizen General MARIANO ESCOBEDO, *Queretaro:*

The citizen President of the republic has, after consultation in cabinet, directed me to say to you, in reply to your telegram to that effect of this day, that as there is not at these headquarters, at this time, the assessor provided for in the law, you may, in the exercise of the faculties which the government has conferred upon you, appoint him.

MEJIA.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 9.

[Telegram from Queretaro to San Luis Potosi, received May 27, 1867, at 4 o'clock and 45 minutes in the evening.]

To the Citizen President of the republic:

A courier has already left with lists of the prisoners.

The attorney who is to conduct the case of Maximilian has permitted him to write to you. The attorney has a doubt. As you know there are three persons to be prosecuted, and in order to effect the reference which is preparing for the defence, only twenty-four hours are allowed. The doubt is, whether this period is to be allowed to each one of the parties defending, or for the defence of the three.

ESCOBEDO.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

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No. 10.

[Telegram from Queretaro for San Luis Potosi, received May 27, 1867, at 4 o'clock and 45 minutes in the evening.]

CITIZEN PRESIDENT: I have sent a telegram to Mexico, with the authority and permission of the citizen General Escobedo, requesting the presence here of Baron Magnus, with two lawyers to take charge of my defence.

The Señor General Diaz has replied, by telegram of yesterday, that he cannot permit the entrance into the city of Mexico of my request without the order of the supreme government.

I desire, Mr. President, that you will be pleased to issue that order, to the end that the persons whom I call for may come, and who are indispensable to my defence, adding to them the representatives of Austria and Belgium, or in their default, those of England and Italy, as it is indispensable to me to arrange with them family matters of an international character, which should have been settled some two months ago.

MAXIMILIAN.

Let this be transmitted.

DORIA, *Secretary.*

Let it pass.

ASPIROZ.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 11.

[Telegram from Queretaro for San Luis Potosi, received May 27, 1867, at 5 o'clock and 5 minutes in the evening.]

Mr. PRESIDENT: I desire to speak personally with you, upon matters grave and very important to the country. As you are a decided lover of it, I hope that you will not deny me an interview. I am ready to start for your city notwithstanding the molestations of my infirmities.

MAXIMILIAN.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 12.

[Telegram from San Luis Potosi, May 27, 1867.]

To the Citizen General MARIANO ESCOBEDO:

The citizen President of the republic has taken cognizance of the request which Maximilian makes, that General Diaz may permit the departure from the city of Mexico—now occupied by the enemy, and closely besieged by the said General Diaz—of Baron Magnus, with two lawyers, in order that they may take charge of his defence, and also of those who have been near Maximilian, the ministers of Austria and Belgium, or in their defect, those of England and Italy, in order to arrange with them family affairs.

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With reference to the request referred to, the citizen President has been pleased to resolve in cabinet, that if the persons solicited by Maximilian can come to Queretaro in time to meet his wish, without interrupting the proceedings of the trial, and the terms which the law prefixes for its termination, you will not place any embarassment whatever to them, and to that end you will transmit this despatch to the citizen General Porfirio Diaz, in that which relates to it.

In case that the persons sent for cannot come in due time, the trial will be proceeded with, and the accused will have authority to avail himself of the services of other persons who may be entitled to defend him.

With reference to the other petition of Maximilian, relative to an interview with the citizen President, as this cannot be realized in consequence of the distance which separates them, and the peremptoriness of the terms of the trial, he will be notified that during the cause which will be instituted against him, he will be enabled to bring in evidence everything that may be convenient to him.

With reference to the question propounded by the attorney, as to whether the period of twenty-four hours is intended for the defence of each one of the accused, or for all of them in common, the citizen President has been pleased to determine that the said term be of twenty-four hours for the defence of each one of the accused.

I communicate this to you for the proper ends, and in reply to the two despatches from yourself and Maximilian relative to the subjects referred to, received this evening at five o'clock.

MEJIA.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 13.

QUERETARO, *May* 25, 1867.

SIR: Not knowing the Spanish language sufficiently in its legal sense, I desire that in case my defenders should arrive a little too late, the time necessary be conceded to me for my defence and the settlement of my private affairs.

MAXIMILIAN.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 14.

[Telegram.]

SAN LUIS POTOSI, *May* 28, 1867.

General MARIANO ESCOBEDO:

SIR: The citizen President of the republic has received a letter to-day from Maximilian, dated the 25th of this month, manifesting that he does not sufficiently know the Spanish language in its legal sense, and he asks that, in case the defenders whom he has sent for do not arrive in time, the time necessary for his defence and the settlement of his private affairs be granted to him.

In view of said letter, the citizen President has decided in cabinet meeting

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that, if the defenders sent for by Maximilian should not arrive within the term which the law provides for the defence, or should arrive at its conclusion, or near the conclusion of that term, you can concede that, in any one of these three cases, the term which the law provides for the defence may commence to be counted over again and immediately; and that the two other persons indicted also may have the benefit of this extension.

Be pleased to make known this determination to Maximilian, as an answer to his letter.

MEJIA.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 15.

[Telegram from Queretaro to San Luis Potosi.—Received May 28, 1867, at 11 o'clock at night.]

The Citizen Minister of War:

I have this moment, at 6 o'clock this evening, received your message, in which you are pleased to say to me that the citizen President has decided in cabinet meeting "that, if the defenders named by Maximilian should not arrive within the term which the law provides for the defence, or should arrive at the conclusion of its term, or near its conclusion, there may be granted, in any one of the three cases, that the term which the law provides for the defence may commence immediately to be counted over again; and that the two other persons indicated may also have the benefit of this extension."

Be pleased to inform me if this be the decision of the citizen President in cabinet meeting, and, in that case, to make some explanations which you may judge in every respect proper.

ESCOBEDO.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 16.

[Telegram.]

SAN LUIS POTOSI, *May* 28, 1867.

The Citizen General ESCOBEDO:

To the question which you put to me in your message of this night, which is confined to asking me whether the decision in cabinet meeting which I have communicated to you, in order that, in the cases indicated to you, you may cause the term provided for the defence to be counted over again, I reply to you, that it is the decision in cabinet meeting of the citizen President, as it is stated in the same message. The terms of said message are clear, but if there occurs to you any doubt as to its meaning, do you state what that doubt is, so that what is proper may be determined upon.

MEJIA.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

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No. 17.

SAN LUIS POTOSI, *May* 31, 1867.

The citizen President having been informed through a letter which you addressed to him under date of the 29th instant, that the telegraphic line has not been able to transmit the question proposed which you made respecting the manner in which you are to grant the extension, for which authority was given you by the supreme government in behalf of the parties indicted, who are now being tried in Queretaro, has been pleased to direct that I make to you the following explanation:

If the defenders should present themselves at the conclusion, or near the conclusion, of the term fixed by the law for their defence, you can concede that the term commence to run from that moment; but if the defender should not present himself at the first term granted, then you can only grant the extension of twenty-four hours more, during which you will not take into consideration whether the defenders arrive or not, and which (twenty-four hours) cannot be extended, even should they arrive while the second term is transpiring; but this will serve the indicted parties as a grace conceded, in order that they may overcome the difficulty by intrusting their defence to the person who may be prepared to render them this service, or undertake it themselves. In case they do not avail themselves of any of the means of defence referred to, it must be understood that they reject this benefit, the said term being then considered as ended, and not to be extended.

Independence and liberty.

MEJIA.

The Citizen General MARIANO ESCOBEDO,
Commander-in-Chief of the Army of the North, Queretaro.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 18.

[Telegram.]

SAN LUIS POTOSI, *June* 5, 1867—7 o'clock p. m.

The Citizen MARIANO ESCOBEDO:

In view of the petition which the citizen Mariano Riva Palacio has made in the name of the defenders of Maximilian, to the effect that the term for their defence be extended, the citizen President of the republic has determined, in cabinet meeting, that, in addition to the extension previously granted, three more days be conceded, counting from the conclusion of the extension previously conceded. These three days are conceded as a term common to Maximilian and to the other two parties indicted, in order that they may be enabled to avail themselves of it also in their defence, with the understanding that no other extension will be conceded, as this is the second time the government has granted an extension, in order to give to the defence the utmost extension as far as it has deemed it compatible with reason and the spirit of the law.

Be pleased to direct that this determination be made known to the three parties indicted.

MEJIA.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

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No. 19.

[Telegram from Queretaro to San Luis Potosi, June 5, 1867, at 8.45 p. m.]

The Citizen Minister of War:

I have received your message of this day, and the decision of the citizen President in relation to the extension of three days, which he has been pleased to grant to them for their defence, has been made known to the criminals, Maximiliam, Miramon, and Mejia.

ESCOBEDO.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 20.

MINISTRY OF WAR AND NAVY—SECTION FIRST.

The persons apprehended on the occupation of the city of Queretaro by force of arms, respecting whom no determination has yet been taken, besides the responsibility of all their previous acts, have incurred in an especial manner that of having desired still to continue the shedding of more Mexican blood, and to cause the country to suffer incalculable evils, without either the probability or the hope of sustaining the mock government which the foreign intervention attempted to impose on the nation, for the purpose of destroying republican institutions, by means of the gallows, incendiarism, and pillage. Agreeably to the express provisions of the law of the 25th of January, 1862, each one of the two circumstances thus attaching to those captured at Queretaro—that is, the fact of their having been apprehended in the act of transgressing said law and engaged in an act of war—would suffice in order that the penalty of death should be inflicted upon them on the mere identification of their persons. However, after having taken this matter into deliberate consideration, the citizen President of the republic has deemed it proper to make use of his ample faculties in order to reconcile, as far as possible, the sentiments of clemency and mercy to the requirements of justice and the very important measure of securing the peace and tranquillity of the nation.

To this end he has thought that a distinction could be made in the degrees of criminality of those more or less guilty. Some of those prisoners, owing to the importance of the civil and military positions which they have filled, the greater influence which their character has given them, and the grave offences which they have committed, or which they have authorized, may be considered the more liable to the penalty of the law. Others are in the same situation who, by former or recent acts, the perpetration of numerous crimes or an excess of refined cruelty, have made themselves as highwaymen and robbers, and deserve no consideration, whatever may have been the class or station they have held.

With reference to both, notwithstanding that they appear to be deserving of the strict construction of the law in this regard, on the mere identification of their persons, the citizen President, in use of his ample powers, has determined, in order that the defences which they may have to make may be heard, that, agreeably to the provisions of the law cited relating thereto, the following trials be held:

1. Those will be tried by one and the same process of law who appear on the special list of prisoners made at Queretaro, as generals of brigade, including Colonels Don Mariano Monterdo, Don Mariano Reyes, and Don Juan Ottou, because they have held important commands or have figured with antecedents involving a special responsibility.

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2. Shall be tried on another indictment the so-called Colonels Don Francisco Redoné Jesus, *alias* Bueyes Pintos, and the so-called Lieutenant Colonels Don José Almanza and Don Emeterio Maldonado, together with the other persons, whatever may be their class or condition, whom you may be enabled immediately to designate in consequence of their having antecedents which distinguish them by their former or recent acts as highwaymen or robbers, or for their refined cruelty.

3. Shall be tried on another indictment Don Manuel Garcia Aquirre, who held the position of minister to Maximilian; Don Manuel Dominguez, who acted as prefect of Queretaro; and Don Domingo Paros, who acted as commissary.

With reference to the other prisoners made at Queretaro, the number of which is large, although they should be equally subject, agreeably to the provisions of the law, to suffer the penalty of death upon the mere identification of their persons, because of the two circumstances of their having been apprehended in the act of transgressing said law and engaged in an act of war also attach to them; nevertheless, the citizen President, making use of his ample faculties, and desirous, in the name of the people and as their representative, of showing an act of clemency and mercy, has decided in council to grant them an exemption from the penalty of death, commuting it in the following manner:

1. Those who appear in the list referred to as colonels shall suffer the punishment of imprisonment for six years in a castle or place which the government may designate; lieutenant colonels for five years, commanders for four years, and captains for two years.

2. The lieutenants and sub-lieutenants of Mexican birth shall be subject for two years to the vigilance of the authorities of the places which they may elect as their residence, so long as they do not give cause by their bad conduct to their being placed in close confinement within that period. They shall at once be furnished with a pass to enable them to proceed to the place of residence which they may elect, where they will report to the authority of the same. They shall be permitted to change their residence when convenient to them to do so on previously giving notice thereof to the authority of the place in which they are, in order that it may give them a pass with which to present themselves to the authority of the new residence which they may elect, in order to remain there in the same manner under its vigilance.

3. Those who appear on the list as lieutenants and sub-lieutenants, of foreign birth, shall remain prisoners until the government, after due examination of their antecedents, shall determine whether they shall remain prisoners for two years, like the captains, or whether it shall issue passports to them to quit the territory of the republic.

4. To those of the class of troops of foreign birth, already sent by you to this city, the government will direct here that passports be issued them to quit the territory of the republic. This same order is given separately, with reference to the rank and file, and even with reference to the chiefs and officers of foreign birth, captured in former battles, who are now in Zacatecas, Guadalajara, Puebla, and other places.

5. Among the prisoners who appear in the list as civil employés, Samuel Bache, who figures as private physician to Maximilian, will be at once set at liberty, and with regard to Joaquin Martinez, Luis P. Blasio, Manuel Castillo y Cos, and Demetrio Ortiz, they shall remain in the manner provided for the lieutenants and sub-lieutenants of foreign birth, subject for two years to the vigilance of the authorities of the places wherein they may desire to reside, unless you may possess antecedents respecting any one or any of them involving circumstances of aggravating crimes, in which case you will be pleased immediately to give notice thereof to the government, that it may determine what is proper to be done.

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6. All those embraced in the foregoing classes, after the conclusion of their terms of imprisonment, or of the time they are to remain subject to the vigilance of the authorities, shall be deprived of the rights of Mexican citizens until they obtain express rehabilitation (reconstruction) from the general government.

Agreeably to these instructions, you will be pleased to issue the proper orders for their fulfilment.

Independence and liberty! San Luis Potosi, June 6, 1867.

MEJIA.

The Citizen GENERAL OF DIVISION,
Commanding in Chief the Army of the North, Queretaro.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 21.

No. 1.]

[Telegram.—From Queretaro to San Luis Potosi, June 2, 1867, at 8.55 p. m.]

To the Citizen Minister SEBASTIAN LERDO DE TEJADA:

General Diaz recommends that as soon as an answer is received from the supreme government to the petition of Baron Magnus, you forward it to San Juan del Rio by express, that it may be transmitted to him.

The term for the defence of Maximilian will begin to run at four or five this evening; so the attorney has informed me.

ESCOBEDO.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 22.

No. 2.]

[Telegram.—From Queretaro to San Luis Potosi, June 2, 1867, at 9.10 p. m.]

To the Citizen Minister SEBASTIAN LERDO DE TEJADA:

I have received the telegram that General Porfirio Diaz sent me, dated in Queretaro, May 25, and I beg you to thank his excellency for his kindness in affording me an opportunity to hasten to the call of a prince in distress.

The Mexican authorities have unfortunately detained me, and I could not leave the city till to-day with the lawyers for the defence. That the defence may be complete I will thank you to request his excellency to suspend judgment for a sufficient time for the lawyers to arrive and fulfil their mission.

A. V. MAGNUS.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

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No. 23.

No 3.]

[Telegram.—From San Luis Potosi, June 2, 1867, at 10.45 p. m.]

To General MARIANO ESCOBEDO:

About ten to-night I received a telegraphic despatch from you with the recommendation of General Diaz to notify him of what is done in relation to the petition of Baron Magnus. The President being indisposed has retired, so I cannot consult him till to-morrow, when I will give you an answer.

S. LERDO DE TEJADA.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 24.

No. 4.

[Telegram.—From San Luis Potosi, June 3, 1867, at 10.15 p. m.]

To General MARIANO ESCOBEDO:

In order to decide upon the messages received last night in relation to Baron Magnus, the President wishes to know if the message of the baron was sent yesterday or before, and from what place. Do you know if he is waiting for the answer, or is he on the road, and where is he to be found at present? and if the term for Maximilian's defence, which you said would begin to run at four or five in the afternoon, is the first term allowed by the law, or is it a second term by virtue of a legal extension?

I will wait for your answer, so that the President may decide.

S. LERDO DE TEJADA.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 25.

No. 5.]

[Telegram from Queretaro to San Luis Potosi, June 3, 1867, at 5.15 p. m.]

To the Chief Minister LERDO DE TEJADA:

I received a message to-day from Mr. Magnus, forwarded at 7 last night from Tepeji, in which he tells me he is continuing his journey; and Mr. Riva Palacio, in another sent to a person in this city, assures him that to-morrow he will be here with Mr. Magnus and other persons who are accompanying him.

The term of Maximilian's defence, which ends at six this evening, is the first granted by the law. I say this in reply to your telegram of to-day.

ESCOBEDO.

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Additional.—The term for Mejia's defence ended yesterday. Maximilian's will begin and end at six to-day, and then Miramon's will come on. Extension has not been granted to any of them.

ESCOBEDO.

WASHINGTON, *July* 3, 1867

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 26.

No. 6.]

[Telegram from San Luis Potosi, June 3, 1867, at 9.15 p. m.]

To General MARIANO ESCOBEDO:

I have received your message of this evening, informing me that you have notice that Baron Magnus and the lawyers accompanying him will reach this city to-morrow; that the term granted by law for the defence of the Archduke Maximilian will finish this evening, and then the term for the defence of Miramon will begin. You were informed by the minister of war, on the 28th of May, that if Maximilian's defenders did not arrive within the term granted by law for the defence, you could grant him a new term, in accordance with his petition, to begin to run anew from the term fixed by law, so that he might make a defence. Conformably to that resolution the citizen President of the republic instructs me to say to you that, as the term for the defence of Miguel Miramon will continue through to-morrow, and as he is one of the parties on trial, and Baron Magnus and the persons with him are expected to-morrow, on the conclusion of the term for the defence of Miramon you may grant a new term for Maximilian's defence, to begin to run anew from the conclusion of the term allowed by law; and in such case this new term shall be common to the other parties, that they may profit by it for their defence.

Communicate this to Baron Magnus in reply to his message, which I received last night.

LERDO DE TEJADA.

WASHINGTON, *July* 3, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

Mr. Romero to Mr. Seward.

[Translation.]

WASHINGTON, *July* 7, 1867.

Mr. Romero respectfully salutes Mr. Seward, and has the honor to state to him that, according to the recommendations he made to him on the 4th instant, that he should send to the Department of State the rest of the documents he should receive respecting the persons captured at Queretaro, he transmits to-day a copy of No. 48 of the newspaper La Sombra de Zaragóza, published at San Luis Potosi the 19th June last past, which he has just received, in which are

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comprehended the documents that the government of Mexico has thought proper to publish at this time respecting the trial of three of those persons. These documents include several of those which Mr. Romero sent to Mr. Seward with his informal note of 3d instant. In a private letter, dated at San Luis Potosi, the 21st June aforesaid, it is said to Mr. Romero that very soon the government of the republic would publish a volume which would contain, besides the documents referred to, the record of the proceedings instituted against those who have been tried, the defences, and other documents and proceedings having relation with the same business.

From the documents published up to this time the fact stands out in relief that the government of Mexico determined with all the clemency that was possible to it, in respect of the fate of the great number of persons captured at Queretaro.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

TRIAL OF MAXIMILIAN.

Documents about the trial of the Archduke Maximilian, of Don Miguel Miramon, and of Don Tomas Mejia, and the execution which took place at Queretaro, this day, 19th June, at seven o'clock in the morning.

[TRANSLATION.]

[Enclosure No. 1.—From the Sombra de Zaragoza, the official paper, of June 19, 1867.]

MEXICAN REPUBLIC—HEADQUARTERS ARMY OF OPERATIONS.

In reply to the note from your department of the 21st instant, I have the honor to say to you that in conformity with the direction of the citizen President of the republic, the trial of Ferdinand Maximilian of Hapsburg and his so-called generals, Don Miguel Miramon and Don Tomas Mejia, was forthwith proceeded on, observing in the judicial proceedings what is provided in the law of January 25, 1862, in articles No. 6 to No. 11, inclusive; sending to your department the list of chiefs and officers, prisoners, as directed at these headquarters.

Independence and liberty! Headquarters at Queretaro, May 27, 1867.

M. ESCOBEDO.

Citizen MINISTER OF WAR AND MARINE
Of the Republic of Mexico, San Luis Potosi.

[Enclosure No. 2.]

MEXICAN REPUBLIC—HEADQUARTERS OF THE EASTERN ARMY—SECTION OF GOVERNMENT.

CITIZEN MINISTER: The telegrams from San Juan del Rio have been received at these headquarters, addressed by General Escobedo, which, by numbers 1, 2, 3, and 4, I have the honor to send in copy, as well as the answer which I gave to them:

[Enclosure No. 3.]

[No. 1. Sent from San Juan del Rio, May 25, 1867.—Received at Guadalupe at ten minutes past 9 o'clock in the morning.]

General of Division PORFIRIO DIAZ:

At half past eight I receive by express the following telegram, which I have the honor to transmit; from the general-in-chief, Mariano Escobedo, and that of Maximilian.

A. ALCERRECA.

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[Enclosure No. 4.]

[No. 2. Remitted from San Juan del Rio, May 25, 1867.—Received at Guadalupe Hidalgo at twelve minutes after 9 in the morning.]

The emperor Maximilian to Baron de Magnus, minister of Prussia in Mexico:

Have the kindness to come and see me as soon as possible, with the advocates Don Mariano Riva Palacio and Rafael Martinez de la Torre, or other you may think well of, to defend my cause, but I desire that it be done immediately, for I have no time to lose. Don't forget the necessary documents.

MAXIMILIAN.

[Enclosure No. 5.]

[o. 3. Sent from San Juan del Rio, May 25, 1867.—Received at Guadalupe Hidalgo at eighteen minutes past 9 in the morning.]

General of Division Don PORFIRIO DIAZ:

The general-in-chief charges me to say to you that you will please to communicate to him seasonably whatever may occur, and principally respecting the message from Maximilian.

A. ALCERRECA.

[Enclosure No. 6.]

[No. 4. Sent from San Juan del Rio, May 25, 1867.—Received at Gadalupe Hidalgo at four minutes past 1 o'clock, afternoon.]

General Don PORFIRIO DIAZ:

I send you the following message:

GENERAL DIAZ: If there is no obstacle to Marquez receiving the former message communicated from Maximilian, it is hoped you will permit it.

A. ALCERRECA.

[Enclosure No. 7.]

Citizen MINISTER OF WAR AND MARINE,
St. Luis Potosi:

Telegraph citizen A. Alcerreca:

Please transmit to General Escobedo the adjoined telegram:

P. DIAZ.

I received the telegram from Maximilian which you sent me, in which he shows that if there is no obstacle it might be sent to Mexico, and in reply I have the honor to say to you that I dare not do so without express order from the supreme government, it being too serious a matter.

PORFIRIO DIAZ.

General of Division D. M. ESCOBEDO.

Which I submit to your superior judgment, that the supreme government may determine what it thinks best.

Independence and the republic! Tacubaya, May 25, 1867.

PORFIRIO DIAZ.

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[Enclosure No. 8.]

DEPARTMENT OF STATE, FOR WAR, AND MARINE.

The President of the republic has informed himself of your despatch dated 26th of last past, in which are various telegrams, referring to the coming to Queretaro of the defenders Maximilian has directed to be called in. By the telegram which I addressed to General Escobedo on the 28th of last month, advising him to send it to the proper direction, you will be aware that the government approved that those individuals should come, if they could arrive at Queretaro in good season.

Independence and liberty ! San Luis Potosi, June 4, 1867.

MEJIA.

General PORFIRIO DIAZ,

Chief of the Army Corps of the Eastern Army and of Forces operating against Mexico, Tacubaya, (or where he may be.)

[Enclosure No. 9.—Telegram deposited at Queretaro for San Luis Potosi, June 2, 1867.—Received at ten minutes past 8 in the evening.]

Citizen Minister SEBASTIAN LERDO DE TEJADA :

I have received the telegrams directed to me by General Porfirio Diaz, dated at Queretaro, 25th May, and ask you to give my thanks to his excellency for the kindness with which he has facilitated to me the means of meeting the application made to me by a prince under misfortune. Unhappily the authorities in Mexico caused me a delay, and only to-day have I been able to leave the capital, with the advocates for the defence. That the defence may be complete, I will be very much obliged by obtaining from your excellency the suspension of the trial for a time sufficient for the defending counsel to be able to arrive for the fulfilment of their mission.

A. V. MAGNUS.

[Enclosure No. 10.—Telegram from Queretaro to San Luis Potosi, June 2, 1867.—Received at fifty-five minutes past 8 in the evening.]

Minister SEBASTIANO LERDO DE TEJADA :

General Diaz recommends that as soon as the answer of the supreme government to the application of Baron de Magnus is received, it be ordered to San Juan del Rio by express, that it may be transmitted to him. The period for the defence of Maximilian will begin to run at four or five o'clock this afternoon, as the government attorney has told me.

ESCOBEDO.

[Enclosure No. 11.—Telegram to San Luis Potosi, June 2, 1867, five minutes past 10 o'clock at night.]

General Don MARIANO ESCOBEDO, *Queretaro:*

About 10 at night I received your telegraphic message, with the recommendation of General Diaz to advise what is to be done about the petition of Baron de Magnus. The President has already gone home to his dwelling, having been somewhat indisposed. Therefore I shall not be able to consult him till morning, and will then reply to you.

S. LERDO DE TEJADA.

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[Enclosure No. 12.—Telegram to San Luis Potosi, June 3, 1867, forty-five minutes past 10 o'clock, morning.]

General MARIANO ESCOBEDO, *Queretaro:*

To determine upon the messages received last night, relative to Baron de Magnus, the President desires to be informed on the following points: Whether the message from Mr. Magnus is of yesterday, or of earlier date, and from what place he sent it? whether you know that he is awaiting reply, or has set forth on the journey, and where he may now be found? and whether the term for the defence of Maximilian, which you told me could begin to run from four or five o'clock yesterday afternoon, is the first term allowed by law, or is already a second term, in virtue of an extension having been granted to him? I await your answer that the President may determine.

S. LERDO DE TEJADA.

Enclosure No. 13.—Telegram from Queretaro to San Luis Potosi.—Received at fifteen minutes past 11 at night, of 3d June, 1867.]

Minister LERDO DE TEJADA:

I have to-day received a message from Mr. Magnus, sent last night at seven o'clock from Tepeje, in which he tells me he is continuing his journey to-day; and Mr. Riva Palacio, in another addressed to an individual at this place, assures him that to-morrow he will be here with Mr. Magnus and other persons who accompany him. The term for the defence of Maximilian, which ends this day at six o'clock in the afternoon, is the first which the law allows. I say this in reply to your telegram of to-day.

ESCOBEDO.

Additional.—Yesterday finished the term for defence of Mejia, that of Maximilian beginning, which concludes to-day at six, and that of Miramon beginning to-day. No extension has been granted to any one of them.

ESCOBEDO.

[Enclosure No. 14.—Telegram to San Luis Potosi, June 3, 1867, fifteen minutes past 9 at night.]

General DON MARIANO ESCOBEDO, *Queretaro:*

I have received the message from you of this evening, communicating to me that you have notice that Baron de Magnus, and the advocates who accompany him, arrived yesterday at your city; that this evening finishes the term which the law grants for the defence of the Archduke Maximilian; and that thereupon the term for the defence of Don Miguel Miramon will begin to run. On the 28th of May you were informed by the department of war that if within the term allowed by law for the defence, the counsel for defence called by Maximilian should not have arrived, you might grant him, as he requested, that from that time should begin to run anew the term indicated by law, in order that he should be able to make his defence. In conformity with that resolution, the President of the republic has concluded that I should say to you, that as the term is running to-morrow for the defence of Don Miguel Miramon, who is one of the parties under prosecution, and as Baron de Magnus and the persons accompanying him will also arrive to-morrow, you may concede that on the conclusion of the term for the defence of Don Miguel Miramon, the term which the law indicates for the defence of Maximilian shall begin to run anew; this new term being in such case common to the others who are under prosecution, that they may avail thereof in their defence. Please to communicate this to Baron Magnus in reply to his message which I received last evening.

S. LERDO DE TEJADA.

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Enclosure No. 15.—Telegram from Queretaro to Potosi, June 5, 1867, at sixteen minutes past 3 o'clock, afternoon.]

To the Minister SEBASTIAN LERDO DE TEJADA, *at San Luis Potosi:*

Last night, at half past eleven, we arrived here, I and other defenders of Maximilian, and the determination to try him being assumed, his trial will be on all parts read and scrutinized with strict attention. In this trial the fate of Maximilian is involved, but you know how much it concerns the honor of the country that the defence should be real in substance, and not merely in appearance. Can such be made in twenty-four hours, when double that time is not sufficient to look over the documents which this evening are going to be delivered to us by Maximilian? A term so peremptory would make defence impossible, and we and the country could not answer anything satisfactory on the fact of leaving undefended a man who thinks he possesses in those documents one of the main supports of his defence. To prepare this a few days are necessary, which we beg the President to grant, permitting me to go and talk with him on the indications made; but for this journey I must know that my companions can reckon upon the time required to do their work.

If you, as I beg of you, accede to my wishes, on receiving your answer I will immediately take the stage.

M. RIVA PALACIO.

[Enclosure No. 16.—Telegram.]

SAN LUIS POTOSI, *June 5*, 1867—7 *in the evening.*

MARIANO RIVA PALACIO, *Queretaro:*

The President of the republic has taken into consideration the message you addressed me to-day, received at half past three this afternoon, and I already communicate by telegraph to the secretary of war such extension of the term for defence as the government deems possible.

LERDO DE TEJADA.

Enclosure No. 17.—Telegram from Queretaro to San Luis Potosi, June 6, 1867.—Received at fifteen minutes past 2 in the afternoon.]

The Minister of War:

At this moment, which is half past twelve at noon, I have received the following:

"TELEGRAPHIC LINES OF THE INTERIOR,
"*Received from Tacubaya June 5, 1867, at 9 o'clock at night.*

"To General ESCOBEDO:

"It is necessary that you should send me two brigades of infantry with forces ready for an assault. P. DIAZ."

I send this to you remarking that to go from this with the force I can possibly muster, it is necessary that General Treviño should come and take command of what is to remain in this city.

M. ESCOBEDO.

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[Enclosure No. 18.—Telegram.]

SAN LUIS POTOSI, *June* 8, 1867,
20 *minutes past* 8 *o'clock, evening.*

To General MARIANO ESCOBEDO, *Queretaro:*

In view of the telegram you sent me this evening, enclosing another from General Diaz, the President of the republic has concluded that you may answer General Diaz that at present none of the forces that are at Queretaro can go thence, because it is necessary they should remain there.

MEJIA.

[Enclosure No. 19.]

DEPARTMENT OF STATE, FOR WAR, AND MARINE.—SECTION FIRST.

In view of the application made the day before yesterday, which you presented yesterday evening, asking that if Ferdinand Maximilian of Hapsburg should be condemned to capital punishment by the court to which he is subjected, the favor of pardon may be extended to him, the President of the republic has determined to make known to you that it is not possible to decide upon the question of pardon before knowing whether the person under trial has been condemned by the court, and that in case of condemnation, if the matter should then be submitted in season to the decision of the government, to resolve whether it would or not concede the favor of pardon in such case, amid all the considerations of the case which would have weight with the government, the statement made by you in your application will be kept in view.

Independence and liberty! San Luis Potosi, June 14, 1867.

MEJIA.

M. RIVA PALACIO and LIC. RAFAEL MARTINEZ DE LA TORRE, *Present.*

[Enclosure No. 20.—Telegram from Queretaro to San Luis Potosi, June 14, 1867, forty minutes past 8 o'clock, evening.]

Minister of Relations:

Yesterday at eight in the morning the council of war opened, and up to this moment, half past seven, has not finished its labors. I think that within two hours, at the furthest, I shall be able to communicate the result.

To-day I have sent from this city the Princess of Salm and various foreigners, because they were at work very recklessly, and their labors were very dangerous.

ESCOBEDO.

[Enclosure No. 21.—Telegram from Queretaro to San Luis Potosi, June 14, 1867, at ten minutes past 12 at night.]

The Minister of Relations:

The council has condemned to death, unanimously, the three persons under trial. The cause is passed over to the assessor.

ESCOBEDO.

[Enclosure No. 22.—Telegram.]

SAN LUIS POTOSI, *June* 14, 1867,
20 *minutes past* 12 *o'clock at night.*

To General D. MARIANO ESCOBEDO, *Queretaro:*

The President is in possession of the two messages you have addressed to me to-night.

LERDO DE ETJADA.

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[Enclosure No. 23.]

DEPARTMENT OF STATE, FOR WAR, AND MARINE,
San Luis Potosi, June 15, 1867.

You have stated in your new application, dated this day, that having notice that the council of war assembled at Queretaro had condemned Ferdinand Maximilian of Hapsburg to the extremest penalty, you sought, as his defenders, that the government would grant to him the favor of pardon, or that, if it could not yet decide that point, would meantime resolve to suspend the effect of the sentence.

The President of the republic, being made aware of this new application, has directed me to say to you that, as I stated to you in my despatch yesterday, it was impossible to pass upon an application for pardon before knowing what was the judgment of the court, there then being no condemnation from which such effect might result, until the finding of the council should be confirmed by the military chief in accordance with the ordinance and laws respecting the matter; and for the rest, that I also should say to you, as noted in my despatch yesterday, that the government not altering the provisions of the law, in case that the finding of the council be confirmed, it then may be submitted in proper season to the decision of the government to resolve whether to concede or not the favor of pardon. In such case, among all the considerations which the government must weigh, it will keep in view what is set forth by you in your two applications.

Independence and liberty!

MEJIA.

MARIANO RIVA PALACIO and
LIC. RAFAEL MARTINEZ DE LA TORRE, *Present.*

[Enclosure No. 24.]

DEPARTMENT OF STATE, FOR WAR, AND MARINE,
San Luis Potosi, June 16, 1867.

The application presented by you of this day's date to the President of the republic, soliciting the favor of pardon to be granted to Ferdinand Maximilian of Hapsburg, who has been sentenced at Queretaro by the council of war which tried him to suffer the extreme penalty, has been met by the following decision:

"This application for pardon, and others presented with the like object, having been examined with all the deliberation which the gravity of the case requires, the President of the republic has been pleased to determine that he cannot accede to them, because the weightiest reasons of justice and the necessity of assuring the peace of the nation are opposed thereto."

I communicate this for your information, and as the result of the application referred to.

MEJIA.

MARIANO RIVA PALACIO and
LIC. RAFAEL MARTINEZ DE LA TORRE, *Present.*

[Enclosure No. 25.—Telegram from Queretaro to Potosi.—Received 16th June, 1867, at fifteen minutes past 1 o'clock, afternoon.]

Citizen President:

The sentence which the council pronounced on the 14th instant having been confirmed at these headquarters, at ten o'clock this morning notice was given to the guilty, and at three in the afternoon they will be put to death.

ESCOBEDO.

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[Enclosure No. 26.—Telegram.]

SAN LUIS POTOSI, *June* 16, 1867,
1 *o'clock in the afternoon.*

General ESCOBEDO, *Queretaro:*

The defenders of Maximilian and Miramon have just applied and made known to the government that the sentence of the council of war which imposed on them and Mejia the penalty of death has been ordered to be executed this afternoon. For the three persons sentenced the favor of pardon has been sought, which the government has denied, after having held on this point the maturest deliberations. In order that those under sentence may have the time necessary for the regulation of their affairs, the President of the republic has determined that the executions of the three parties under sentence shall not take place until the morning of Wednesday, the 19th of the current month. Please to give orders in conformity with this determination, and advise me at once of the receipt of this message.

MEJIA.

[Enclosure No. 27.—Telegram from Queretaro to San Luis Potosi.—Received June 16, 1867, at one minute past 4, afternoon.]

To the Minister of War:

I am informed that the President has directed that the execution of the guilty be suspended until the morning of Wednesday, the nineteenth. I shall carry out this final disposition.

ESCOBEDO.

[Enclosure No. 28.—Memorandum.]

DEPARTMENT OF STATE, FOR WAR AND MARINE,
San Luis Potosi, June 16, 1867.

The Baron A. V. Magnus, who has exercised the functions near Maximilian as minister of Prussia, and Messrs. Mariano, Riva Palacio, and Don Rafael Martinez de La Torre, the three summoned by Maximilian from Mexico for his defence, and who are now in this city, came together to see the secretary of relations and government at twelve o'clock this day. They stated that Messrs. Riva Palacio and Martinez de La Torre had received a telegram from Queretaro telling them the sentence of the council of war had been confirmed, imposing the penalty of death on the Archduke Maximilian, Don Miguel Miramon, and Don Tomas Mejia; that the sentence had been made known and the hour of three in the afternoon named for the execution. The three gentlemen named petitioned the government to communicate at once by telegraph an order for suspending the execution until action had upon the application for the favor of pardon. Besides, Mr. Magnus asked that in case of the refusal of pardon, a period should be granted, indispensable to him, to go to Queretaro and have an interview with Maximilian. He based his application on the fact that Maximilian had stated to him at Queretaro, that in case of condemnation he desired to confide to him some commissions to his family. He added that his going to Queretaro was now of more importance, because he knew that those who had exercised functions near Maximilian as the representatives of Austria and Belgium, to whom, in the absence of Mr. Magnus, he might have confided those family matters, were no longer at Queretaro, but had been marched away to Tacubaya.

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Three days before the thirteenth Mr. Magnus had spoken as well of the grant of pardon, in case of condemnation, as on the fact that he might have time to go to Queretaro to be able to receive Maximilian's directions. On the very day (the thirteenth) he had been answered on the first point that the government could determine nothing about pardon while there had not been any condemnatory sentence; and upon the second point, that in case of the pronunciation of such sentence the government could not proffer in anticipation that it would grant the time necessary for him to go to Queretaro, wherefore if Mr. Magnus thought proper he could return at once to that city. The President of the republic being informed of the petitions made to-day by Messrs. Magnus, Riva Palacio, and Martinez de La Torre, made arrangement to advise at once with his ministers about the business, resolving that it appeared impossible to grant the favor of pardon upon the gravest considerations of justice, and the unavoidable necessity for securing the peace of the republic; and that it would not be humane to prolong much the situation of the three persons under sentence, and at the same time not humane to deny altogether the petition presented for the purpose of giving them time to regulate their affairs. In virtue whereof it was determined to communicate at once by telegraph an order to suspend the execution for two days until the morning of Wednesday, the 19th instant. This order had reference to the statement of the defenders as to the hour indicated to-day for the execution, and did not refer to the telegram of General Escobedo on the same point because such telegram was not received until some moments after the order was sent by the telegraph. Although after Mr. Magnus was informed of the result he indicated the wish that the execution should be deferred until Friday, the 21st, it did not appear humane, nevertheless, to prolong the time so much, and he was answered that it had already been calculated that he could without difficulty reach Queretaro on to-morrow (Monday) night, or early on Tuesday morning. He was also told that for this purpose the government would give him all the facilities he could desire, and in conformity with his intimation the minister of relations has ordered a diligence extraordinary to be placed at his disposal.

This memorandum is drawn up that the facts related may appear in the report.

MEJIA.

[Enclosure No. 29.]

FOREIGN RELATIONS, DEPARTMENT OF GOVERNMENT—SECTION FIRST.

The President of the republic has decided that you will please direct that at once a diligence extraordinary be prepared to go as speedily as possible from this city to Queretaro; said diligence to be placed under the control of Baron A. V. Magnus, with the persons he may choose to accompany him.

This I communicate to you to the end that said diligence extraordinary may be ready at the hour Baron de Magnus may appoint for this afternoon, or this day's night. Independence and liberty! San Luis Potosi, June 16, 1867.

LERDO DE TEJADA.

The ADMINISTRADOR DE DILIGENCIAS *of this city.*

[Enclosure No. 30.—Telegram from Queretaro to San Luis Potosi.—Received thirty minutes past 9 o'clock in the night of the 18th June, 1867.]

His Excellency SEBASTIAN LERDO DE TEJADO:

Having arrived to-day at Queretaro, I have become assured that the three persons condemned at Queretaro on the 14th died, morally, on Sunday last, and that thus the whole world may consider it, because all their preparations for

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death being made, they expected every moment through an entire hour to be taken to the place where they are to be put to death, before it was possible to communicate to them by means of the telegraph the order to suspend the act. The humane practices of our day do not allow that after having suffered this horrible torment, they should die a second time to-morrow. Therefore, in the name of humanity and of Heaven, I conjure you to order not to take their life; and I again repeat to you that I am certain that my sovereign, his Majesty the King of Prussia, and all the monarchs of Europe, united by the ties of blood with the prince prisoner, to wit, his brother the Emperor of Austria, his cousin the Queen of Great Britain, his brother-in-law the King of Belgians, and also his cousin the Queen of Spain, and the Kings of Italy and Sweeden, will readily come to an understanding to give to his excellency Don Benito Juarez every assurance that no one of the three prisoners shall return to tread on Mexican territory.

A. V. MAGNUS.

[Enclosure No. 31.—Telegram at five minutes past 10 at night.]

SAN LUIS POTOSI, *June* 18, 1867.

To Baron A. V. MAGNUS, *&c., &c., Queretaro:*

I regret to inform you, in answer to the telegram you have pleased to send me this night, that, as I announced to you the day before yesterday at this city, the President of the republic deems it impossible to grant the pardon of the Archduke Maximilian, upon the gravest considerations of justice, and the necessity for securing the peace of the republic.

I am, baron, very respectfully, your obedient servant,

S. LERDO DE TEJADA.

[Enclosure No. 32.—Telegram from Queretaro to San Luis Potosi, June 19, 1867.]

The Minister of War:

On the 14th instant, at 11 at night, the council of war for the trial of Maximilian of Hapsburg, Miguel Miramon, and Tomas Mejia condemned them to suffer the penalty of death. The sentence being confirmed at these headquarters on the 15th, the 16th was appointed for its execution, which has been suspended until to-day, by direction of the supreme government. It was 7 o'clock in the morning when the said Maximilian, Miramon, and Mejia were shot to death.

Please communicate this to the President of the republic.

ESCOBEDO.

[Enclosure No. 33.—Telegram for Queretaro.]

SAN LUIS POTOSI, *June* 19, 1866.

General MARIANO ESCOBEDO, *Commanding the Army of the North:*

I have received the message from you of this day, in which you tell me that at seven this morning, Maximilian of Hapsburg, Miramon, and Mejia were put death.

MEJIA.

Mr. Romero to Mr. Seward.

[Memorandum.]

MEXICAN LEGATION TO THE UNITED STATES OF AMERICA,
Washington, May 29, 1867.

This morning Mr. Romero received a note from Mr. Seward, requesting him to call at the Department of State as soon as convenient. Mr. Romero called at

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once, and Mr. Seward asked him what news he had received about the last events in Mexico. Mr. Romero answered Mr. Seward that none besides such as Mr. Seward had communicated to him the day before yesterday, and those which have been published afterwards in the newspapers; but that to-morrow, or the day after, Mr. Romero expected his correspondence from San Luis Potosi; perhaps up to the date of the 15th. Mr. Seward then asked Mr. Romero several questions about the way in which the news from Mexico would come; when some later, to the 15th, could be received; whether they would come sooner by Acapulco and San Francisco, and several others. In conclusion, Mr. Seward requested Mr. Romero, in the most special manner, that as soon as he might receive some correspondence from Mexico he would communicate to Mr. Seward the news he might have.

The cause of his anxiety for such news was, as Mr. Seward stated, that the Austrian minister had called on him to-day at an early hour and showed him a telegram he had just received, in which he was recommended to again solicit, with the speed required by the case, the earnest interposition of this government in favor of Maximilian. Mr. Seward told Mr. Romero he feared very much that a hasty mediation might produce, in the present condition of affairs, some results contrary to those wished for, and that he consequently thought more prudent to wait until some events posterior to the capture of Queretaro would transpire; that, besides, possibly at this time events might have matured, and that the Mexican government might see things in the same light as Mr. Seward, and then it was useless to intervene; that on this account he wished to know as soon as possible what might have occurred, to take, accordingly, the action he would deem advisable. Mr. Romero offered to communicate to Mr. Seward the news he may have as soon as received.

* * * * * *

The foregoing memorandum is taken from a despatch addressed by Mr. Romero to the secretary of foreign affairs of the republic of Mexico, on the 29th of May, 1867, No. 220, mailed in Washington on the 1st of June following.

M. ROMERO.

WASHINGTON, *July* 12, 1867.

Mr. Romero to Mr. Seward.

[Memorandum.]

MEXICAN LEGATION TO THE UNITED STATES OF AMERICA,
Washington, D. C., June 10, 1867.

Mr. Romero called to-day on Mr. Seward. * * * *

Mr. Seward asked Mr. Romero when he thought of going home; to which Mr. Romero answered that he expected he could do so some time next month. Mr. Seward asked Mr. Romero, too, when Mrs. Juarez thought of returning home; and he then said that he would try to place at her disposal a United States man-of-war, which will take her from New Orleans to Vera Cruz or Matamoras, or from New York if this was possible. Mr. Romero thanked Mr. Seward for his good disposition, and promised him to communicate this to Mrs. Juarez. * * * * *

The foregoing memorandum is taken from a despatch addressed by Mr. Romero to the secretary of foreign affairs of the republic of Mexico, on the 10th of June, 1867, No. 238, mailed in Washington on the 15th of the same month.

M. ROMERO.

WASHINGTON, *July* 12, 1867.

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Mr. Romero to Mr. Seward.

[Translation]

MEXICAN LEGATION TO THE UNITED STATES OF AMERICA,
Washington, July 12, 1867.

Mr. Romero has the honor to remit to Mr. Seward a translation into English of an article from the paper "Sombra de Arteaga," published at Queretaro, the 18th June last, in which is given a succinct narrative of the trial of Don Ferdinand Maximilian of Hapsburg, Don Tomas Mejia, and Don Miguel Miramon.

This article gives a slight idea of that trial, and will serve, therefore, to calm the anxiety which is felt here to learn the details. Mr. Romero thinks it due, nevertheless, to make known to Mr. Seward that in said article the able defences of those who are at rest are brought out in high relief and very specially, from which it appears that only one side of the question is presented, and therefore it may be considered as partial to the accused. In all the rest, however, the narrative appears correct.

With reserve, then, of sending to Mr. Seward the entire record of the case, or such portion as may be published, and which will contain both sides of the question, Mr. Romero hastens to transmit to him the article mentioned, which will place Mr. Seward in position to give to Congress the information it desires of the trial itself, although incomplete and partial.

[Enclosure No. 1.]

The following account of the trial of the imperialists is translated from the Mexican journal, Sombra de Arteaga, of Queretaro, June 18:

The three days' prorogation granted by the supreme government to the counsel of the criminals for their further defence having expired, an order from headquarters organized the court-martial, and in virtue of the orders from headquarters, the adjutant general issued his orders as follows:

[General orders of the division for the 12th and 13th of June, 1867.]

ARMY CORPS OF THE NORTH,
Adjutant General's Office, Queretaro, Mexico.

At 8 o'clock on the 13th court-martial will organize, and be composed of the following officers: President, Lieutenant Colonel Platon Sanchez. Members, Captain José V. Ramirez, Captain Miguel Lojero, Captain Ignacio Jurado, Captain Juan Rueda y Auza, Captain José Verastigue, Captain Lucas Villagran. This court-martial will meet at the appointed hour, at the theatre Iturbide, in comformity with article 8 and paragraph 5 of general orders of army regulations No. 37. All officers, not on duty, will attend punctually on the court-martial, at the place and time mentioned. At 6 o'clock a. m. will be formed in front of the temple of Capuchinas, fifty mounted riflemen, of Galeana, with their corresponding officers, armed and equipped; and fifty men of the battalion of the guard "of the supreme powers," likewise with their arms, equipments, and officers, both of which detachments will place themselves under orders of Colonel Miguel Palacios, commanding second brigade.

(Signed) SIERRA.

MEDINA.

At 8 o'clock a. m., on the 13th of June, the court-martial assembed at the theatre of Iturbide, and the audience was very large. The stage was occupied by the court, leaving the rest of the theatre to the spectators. The right of the

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stage was occupied by the members of the court, and on the left, and immediately opposite, were placed three stools for the criminals and seats for their counsel. The most profound emotion was depicted in the countenances of all, and the silence that reigned in the circle could almost be felt. Messrs. Miramon and Mejia were brought into the theatre at 9 o'clock in the morning, in a coach, escorted by a company of riflemen of Galeana, covering front and rear of the vehicle, flanked by a company of the "supreme powers" on one side, and one company of the 4th battalion on the other. In this wise they arrived and were delivered over to the officers in charge of the court-room. The president opened the court. The members and the counsel took their seats, all being in strict uniform. The judge advocate, Lieutenant Colonel Manuel Aspiroz, read the charges, after which was read the order from the commander-in-chief. As the trial and all the proceedings will soon be published, we will only rapidly sketch its progress, discharging our duties as historians. The previously taken declarations of the prisoners, first, Maximilian, then Miramon and Mejia, were read. Next followed the confession and charges, after which there were some slight unavoidable interruptions, such as, for example, Maximilian asked that he be permitted to call three lawyers of Mexico to defend him. He also desired Baron Magnus to be called; that he had matters of his family to arrange, and also matters of a national character touching Venice, Italy, and Austria, of the utmost importance to those countries. The general-in-chief granted the prayer of Maximilian, forwarding his despatch to General Porfirio Diaz. The latter, however, would not allow the telegram to pass into that city, on account of its being besieged, stating that he must have a special permit from the supreme government of the same, which was granted. Maximilian named as his counsel Mr. Jesus Vazquez, of this city, and Eulalio Ortega, Mariano Riva Palacio, and Rafael Martinez de la Torre, of the city of Mexico. Marimon nominated Messrs. Jauregui, of San Luis Potosi, and Ambrosio Moreno, of Queretaro. Mejia nominated Mr. Prospero C. Vega, also of Queretaro.

The counsel having read their acceptation of the defence, other documents of a preliminary character were presented and read, but the rapidity of the reading and the confusion in the proceedings do not enable us, at present, to give a detailed account of them, according to numbers and dates, or of their exact statements. We will, therefore, content ourselves only with speaking of the main ones. Among the documents regarding Maximilian, outside of the petition aforesaid, there was one protesting against the jurisdiction of the court-martial, claiming it to be an illegal proceeding against his person, inasmuch as it was based upon the law of the 25th of January, 1862, decreeing against traitors to the country; and that he, being a foreigner, could not be a traitor to the country that is not his own, and over which he exercised such high functions that he believed himself unamenable to the law. There was also a petition, directed by Maximilian to the President, asking an interview, and the answer of the President, stating that the interview could not be granted, because of the limited time allowed by law for his trial, but that he could address him in writing anything he chose to say. An order from headquarters also advised the judge advocate that any protest or exceptions taken by the accused shall be properly certified, and a copy of it given to those interested. Mention was also made of the certificate of illness of Maximilian, arguing in favor of the prisoner being removed to some other place, for change of air.

Next was read the protest of Miramon and Mejia against the jurisdiction of the court, which being refused, they again excepted to, because they were denied the right to appeal, there being no supreme court in the nation, and they asked only that they be furnished a certified copy of the rulings of the court. These proceedings having been gone through with, the accused, Thomas Mejia, was brought into court and was seated on a stool, guarded on each side by an escort of the "supreme powers." Mr. Prospero C. Vega commenced the defence. We

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have heard a great deal and have read much, but never have we heretofore felt the admiration inspired in us by the able counsel, filled with the principles of right most applicable to the case, delivered by the heart and inspired by the most liberal principles of our great code, the constitution of 1857. This masterpiece of oratory moved profoundly the entire audience. The points of defence were three: 1. The meaning of the law of January 25; 2. Its application to the defendant; 3. Its constitutionality. The counsel held that the law of January 25 is only applicable from article 6th to 11th, inclusive, because the balance conflicts with the law of nations and cannot subject the accused to the penalties of said law. In sketching the political status of the accused, in a brilliant biography, he reviewed his military career up to the present time, showing conclusively that he had not allied himself with the intervention. Said Mr. Vega: Mejia offered from the sierra an armed neutrality to Doblado, which he observed until the general government abandoned the capital—behaving in such a manner that he did not disturb their transit almost immediately through his camp. The same behavior he observed toward the officers of the government and their employés, and even to the troops, who were so thoroughly demoralized in their retreat that nothing would have been easier than their destruction. He insisted that the defendant was not an interventionist of the men of Baranca-Seca; that in all of his campaigns he limited himself to defence, and never to attack, remaining faithful to his flag and complying with his military duties. He especially claimed as the best point for defence that Mejia never spilt blood of prisoners; that he had very frequently in his power many of the commanders, chiefs, and officers of the liberal army; that he always treated them with humanity, to which, said the counsel, Generals Escobedo and Trevino could testify. The illustrious martyr, Arteaga, has also been his prisoner, as well as an innumerable number of employés and soldiers of the liberal government. He touched upon the political character of the accused, saying that Mejia, faithful to the proclamation of the government to which his political conviction adhered, he followed the different phases of the civil war. But when the intervention got into the land, Mejia ignored the true physiognomy of the war, and allowed himself to be deceived by its promises, believing that the establishment of a throne in Mexico was the voluntary will of the people. And, finally, addressing himself to the council of war, he spoke in those affecting terms which never fail to move the heart of the young and brave, calling their attention to the humane principles laid down in the constitution of 1857, which abolished capital punishment, and conjuring them not to stain the laurels of triumph with the blood spilt upon the scaffold. Mr. Vega spoke in a happy strain, and the obscure lawyer made himself famous before the bar of Mexico. The president asked the accused if he had anything to say in his defence. He answered no; that all was said by his counsel, but that if anything was forgotton the counsel would state it in proper time.

Mejia was then led out, and immediately Miguel Miramon was introduced. Messrs. Jauregui and Moreno read successively the defence of the accused, with but slight difference in the legal part of the defence, the same points being claimed as were made in the defence of Mejia, regarding the incompetency of the court, and the refusal of the right of appeal. A great many authors were read touching the case in point. But the main point of the defence went to establish the fact that the law of January 25 could not be applied to Miramon; he was accused of stubborn resistance to the constitutional government his pronunciamento in Puebla, his abstracting the funds of the convention, his usurpation of power, and, lastly, his last campaigns under the flag of the empire. The counsel energetically argued against the application of the law of January 25, being applied in this case of Miramon to acts committed before its passage, and for some of which acts he had already suffered legal punishment, and for others in which he had, as an accomplice of the first magistrate of the nation (for

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the state policy of Comonfort) and others, followed merely in the train of events of parties in the civil war. The counsel claimed that Miramon did not join the intervention, because he remained in a foreign country during its conception and consummation, without participating therein. That from a foreign soil he offered his services to Mr. Juarez; that his services were accepted, and if he failed to render the services it was because of circumstances beyond his control. But finding it impossible to any longer live outside of his native country, he returned to it, finding the empire already established; that he was then banished to Berlin by Maximilian; and, said the counsel, becoming the irreconcilable enemy of foreigners, he again returned to Mexico, at the time when General Castagny withdrew with the last of the French troops, and then it was that he took part with the partisans until made a prisoner. Messrs. Jauregui and Moreno thereby inferred that the law of January 25 is not applicable to Miramon, and that for the acts in the last period of his career he was protected by constitutional guarantees, and the law of nations regulating the right of prisoners of war. The counsel briefly touched upon the personal character of the defendant, citing his clemency to prisoners of war, mentioning some very noted instances. Mr. Jauregui particularly called attention to an instance in which he himself was indebted to Mr. Miramon for his life, upon that memorable day in Tacubaya, the 11th of April, where, among others, his brother was one of the martyrs, he being among prisoners captured by Marquez. The fatal square was formed, when Miramon saved him from the fangs of Marquez. And finally the counsel invoked the clemency of the liberal party, so brave in war, so noble in victory. Neither the counsel nor the accused having anything further to say, he was led out to his prison adjoining that of Mejia.

Next followed the trial of the archduke. Having been confined to his bed for some days previous, he was this day, if anything, worse. Mr. Manuel Azpiroz repaired to the prison, from whence he returned shortly, stating that it was impossible for the prisoner to appear, in consequence of which Messrs. Jesus Maria Vazquez and Eulalio Ortega alternately read the defence. The first part of the defence comprehended all of the legal points applicable to the case. It was claimed that the court was incompetent to try the case, that the law could not be applied, and the unconstitutionality of the same, and they strongly argued against the irregularity of the proceedings of the court in the absence of all witnesses, documents, and of proof. The situation in which the defence finds itself is incomplete. That the case under consideration is of such magnitude, involving so many points of international law, history, and politics, that the forty-eight hours which were granted are insufficient for its preparation. That the prisoner should not be deprived of the proper means of defence, and more particularly in this case it is imperatively necessary, the nature of the case requires, that all the legalities be complied with; that calmness and deliberation mark the proceedings, in order that the fair name of this republic should remain unimpaired before the world, which so anxiously awaits the solution of this social drama. Several authors were cited to sustain the position taken.

The court overruled the position taken, and forced the defence to trial, the counsel declaring that they could but would not keep silent, in view of the incompetency of the court and the illegality of the law, and then commenced giving the history of the prisoner. Mr. Ortega, who was then speaking, said that he would answer to the charges made against the prisoner, because he was forced to do so, not because there existed any proof sustaining the charges. He ran over the history of the accused, his arrival in Mexico, answering to the charge made against him as an usurper. He said, Maximilian being at Miramar, received a delegation of Mexicans, presented to him by a high functionary of the court of his brother, who came to offer him the crown of Mexico. Maximilian refused to accept the crown until the will of the nation should be known to him. Meanwhile the French occupied Mexico, and under

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the terror of bayonets the assembly of notables was convoked, who voted the creation of an empire, of which the archduke was to be the head. Under the influence of the said assembly many municipalities gave in their adhesion, and these acts of adhesion were remitted to the emperor elect. Maximilian, still hesitating, consulted the most eminent jurists of England, and the college of London declared that he was elected by the will of the nation, emperor. The jurists of London, as well as the candidate, ignored the means used in Mexico in order to obtain the unanimity of the people by triumphant parties. Maximilian accepted, not believing himself an usurper, but, on the contrary, its legitimate sovereign; and, moreover, this belief was confirmed by the reception he received on his arrival in this country, unaccompanied by troops, and none with him but his family, the ovations tendered to him in his transit from Vera Cruz to the city of Mexico, and at the places he visited afterwards in the interior of the country. Mr. Ortega denied the charge that Maximilian was there as an instrument of France; that the archduke had been in conflict with her since the agreement at Miramar; that there France asked the cession of Sonora, and he refused it, and even insisted that the article claiming this pretension should be stricken out; that he constantly opposed the demands of the French officials, and this state of affairs lasted till they quit the country. When Maximilian perceived the first symptoms of general discontent, he withdrew from the capital, and in Orizaba and Cuernavaca he called around him his ministers of state and consulted with them about the legitimacy of his election and the will of the people, and they represented to him the entire fidelity of the people. Most ably did the counsel refute the charge of cruelty charged upon the prisoner. He said the law of the 3d of October was made by Maximilian when he was cheated into the belief that President Juarez had abandoned the territory, and that one of the articles of that law was dictated by the commander-in-chief of the French. Moreover, this law was only intended as a terror, because never was a petition for pardon presented but it was conceded. He had given orders that no matter at what hour of the day or night a petition for clemency came, he should at once be informed of it; that neither his rest nor his labors should be regarded, which was strictly observed. Finally, the counsel argued the unconstitutionality of the law of 1862, it being incompatible with the spirit of the liberal party and the rights of the nation, inasmuch as the conqueror is made the judge of the conquered. The counsel closed, earnestly asking the members, in the name of civilization and the history which will judge of the terrible deeds done this day, for the defenders of the second independence of Mexico, to save the good name of this country, in the eyes of the coming generations, that they may forever applaud the crowning of the greatest of victories with the greatest of pardons. Here ended the reading of the eloquent defence.

The brief time we had to pen this narration, and the difficulty of retaining in our memory, with precision, all that was said and transpired at the court-martial, its proper order and continuation, has prevented us from rendering literally exact the words pronounced and phrases used. We were without a stenographer, and had no recourse to the documents to rectify errors. It has been the work of a memory weakened by fourteen hours of mental labor, and we ask the judge advocate and counsel to pardon us if we have not been exact in our work as historian. What we do declare is that we have especially adhered to the truth in reference to all the circumstances connected with this case. Profound are the reflections emitted by this solemn trial; but reduced to paper by the historian, in it will be found only what transpired, and we have repeated but the words said, keeping silent our own feelings. Hereafter we will disturb that silence which we this day maintain out of compassion for the tried, and in respect for the holy mission of the reporter who explains questions, defends

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principles and crushes crime, but salutes respectfully the fallen, if he does not raise his compassionate voice in mercy for him.

It was 9 o'clock at night when the president announced that the court stood adjourned to 8 o'clock to-morrow morning; that the defence could not longer continue, as the court desired to consult counsel in reference to some points in the case.

June 14. At the stated hour the court-martial, having gone through the usual form, was declared in session. None of the accused were present. The president asked the counsel for the prisoners if they had anything further to advance for the defence. They answered not at present, but wished to reserve further argument until a later period in the trial. Mr. Manuel Azpiroz, the judge advocate, then read the charges against the accused, sustaining the same by certain official documents emanating from the so-called imperial government. Mr. Azpiroz united with his known ability a dignified and solemn energy which indicated no doubt as to the result of the trial on the minds of his hearers. Among the accusations against Maximilian, was found that terrible charge of having attempted to prolong the war by his celebrated decree of March 7, already laid before our readers in our last number, in which he created a regency in case of his death in any of the coming battles. To rebut the effort made by Mr. Vega to overthrow the charges by reason of the absence of any proof of the same, the judge advocate said that all the charges were founded upon the notoriety of the acts, and that notoriety was sufficient to establish the accusation; that according to article 28 of the law of January 25, it would have been sufficient to establish it as a capital offence, even previous to the identification of their persons. The absence of those records and testimony, which the counsel deem so strange, amounts to nothing. They are not needed. The prisoners were captured with arms in their hands, and their crimes are known to the entire world. He concluded by asking that capital punishment be adjudged the accused.

Messrs. Vazquez and Ortega then successively addressed the court for the defence. The first of these gentlemen carefully refuted the charges, and concluded with these memorable words, addressed to the court. "If you condemn the archduke to death, I am not uneasy about a coalition in Europe, or the threatening attitude that the United States may assume toward the republic. I have confidence in the liberal armies that have rooted out the French from this soil. But I fear the universal reproach that will fall upon our country, as an anathema, more than even the sentence of death, because of the nullity of the proceedings of this court." At this point Mr. Ortega proceeded. This gentleman is an orator. We have seen him, and were reminded of the beauties of Mirabeau. His audience was held spell-bound. He went into the case with that power of improvisation so remarkable in him. He protested against the irregularity of the proceedings. He called attention to the principle in right and law that the judge advocate should first read his petition before the defence commences, because the last words to be heard by the court should be those of the accused. He charged the judge advocate with having formed his petition from the answers made by the defence, in view of the proofs furnished by the defence, which is at variance with the legal practice and the rightful nature of all things. He reproached the judge advocate with having collated into his petition proof that had not been read during the trial, which, apart from proving that that officer had taken advantage of the suspension of the court during the night to perfect his accusation, but making points which were suggested to him by the defence—this being against all law in a question where life and death is concerned—had more the appearance of trying the prisoner on his own statements, than by the proofs adduced against them by the prosecution. Regarding the accusation against the archduke that he attempted to prolong the war by appointing a regency in case of his death, said the counsel, with earnestness and spirit, I declare that Maximilian's subsequent act of abdication at the Cerro

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de la Campana is in existence. On my honor, I can assure you, and likewise can the faultless liberal, Mariana Rivas, assure you, that in that abdication there is no evidence of a regency. Concerning the article 28, of which the judge advocate spoke in justification of the absence of evidence and documentary proofs, all the counsel for the defence answered in so many words, that the times of the inquisition had passed, in which nothing but the mere forms were all that were required for conviction. They never supposed that Mr. Azpiroz expected the honorable court, whose youthful members were the brave and noble soldiers of the republic, had assembled for the purpose of condemning, and not convicting. And, lastly, that they never believed that the honorable court would make a farce of justice, under a watchword, instead of proceeding according to the dictates of their own consciences. They (the counsel) scorned to entertain this idea of the brave chiefs composing this council. The idea is the offspring of the strange argument of the judge advocate.

One of the counsel for the defence, we believe Mr. Vega, asked the judge advocate by what right he annulled the order of the supreme government, demanding him to proceed according to articles 6 and 11 inclusive, comprised in the law of the 25th of January, omitting the balance, and among them article 28. Mr. Ortega read the order and made a note of the infraction. Mr. Jauregui having closed for the defence, Mr. Moreno presented a protest based upon three propositions, energetically protesting against the admission of evidence subsequent to the trial, inasmuch as the prosecution had been roused up and the judge advocate had ample notification of the defence. Without anything further transpiring, the court went into secret session for the purpose of passing the sentence. At near 10 o'clock at night the court-martial dissolved, and we are not at this moment officially informed of the decision.

The court-martial is over, and the republic, after having struggled until they brought their enemies to the bench of the accused, after having beaten them in a thousand fights, will this day decide their fate, either by approving their sentence or extending clemency. The city, the republic, the world, await anxiously the results of this terrible drama.

[Enclosure No. 2.]

We extract the following from the La Sombra de Arteaga, published at Queretaro, and El Mexicano, published at the city of Mexico:

"Having placed ourselves at the head of our army for a campaign which will decide not only the form in which Mexico will be governed, but the integrity of its territory, and the existence of the country as an independent nation, we have considered the case of our death, by an accident of war, as possible, and the possibility of Mexico, which we love with predilection, being headless in its government. The regency which we established in less hazardous days than these, depending in Providence and the intelligence and virtues of our august wife, the Empress Charlotte, has ceased to exist on account of her absence in Europe; it is necessary to meet that want with a medium of similar nature, the Mexican nation not having expressed its will to change the form of government; and the monarchy existing to-day, it is proper to establish a regency which can govern the state in case of vacancy of the throne. Loving the Mexicans as we do, we have determined, for the referred case of our death, to leave a regency established, serving transitory as the centre of union to the government, to save the country from horrid wrongs, and we recommend the Mexican people, who see in this measure the last testimony of our love to them, to accept it joyfully. The citizens which we have placed as regents are well known for their illustration, patriotism, and perseverance in the grave affairs of the state, and are consequently acceptable by their countrymen. In virtue of which, we establish a regency of three persons, and we name regents, the president of the supreme

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tribunal of justice, D. Teodosia Larez, the president of the state council, D. José M. de Lacunza, and the general of division, D. Leonardo Marquez. We name vice-regents, in order that they may replace the proper regents in case of need, D. Tomas Murphy, and D. Tomas Mejia. The regency will govern in accordance with the organic statute of the empire. The regency will convoke the congress, which definitely constitute the nation, after the termination of the war, by the triumph of the imperial army, by amnesty or any other means which will bring hostilities to a conclusion, the free and legitimate reunion of that constituting power take place. The regency will cease, and with it the power which we bestow upon it, by this letter, at the inauguration of congress. In the expressed case of our death, we name from to-day D. Leonardo Marquez, general-in-chief of the army, until the assembly of the regency. The Hon. D. Manuel Garcia Aguirre, our present minister of public instruction, is recommended to let this, my last will, be known to the nation, and to the regents whom we have named. In addition to our orders to the regents, we recommend them to punctually follow the motto which has been the seal of all our acts as sovereign, "Equity and Justice," to guard inviolably the independence of the nation, the integrity of its territory, and a politic foreign to all spirit of party, devoted only to the happiness of all the Mexicans, without distinction of opinion."

Copy taken from the original.

J. C. DORIA, *Secretary.*

QUERETARO, *June* 10, 1867.

[Enclosure No. 3.]

THE DECREE.

Considering that if our death was to happen, the government of the empire would be headless on account of the absence of its legitimate regent, our august wife, the Empress Carlotta; considering that to remedy this great wrong, and to secure on our part the happiness of the Mexican nation, even after our death, it is necessary to leave an established government whom the nation can recognize as the centre of union; considering that it is through the freely convoked congress which will be decided the form in which it will continue to be constituted, and substitute the present one, which is the monarchy, and for the same cause of our absence the government will be deposited in a regency, we decree:

ARTICLE 1. Our regents of the empire, in our defect in case of death, D. Theodosio Lares, D. José M. de Lacunza, and General Leonardo Marquez.

ART. 2. The regency will govern in accordance with the organic statute of the empire.

ART. 3. The regency will convoke congress, which will definitely constitute the nation after the termination of the war by the action of arms or by amnesty. The legitimate and free election can take place, and that constituted power can reassemble.

ART. 4. The regency will cease, and also the power with which we invest it in this decree, at the installation of the congress.

Our minister of public instructions is recommended to inform the regents heretofore named, when necessary.

Given at Queretaro, June 10, 1867.

J. C. DORIA, *Secretary.*

Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, July 17, 1867.

SIR: I have the honor to acknowledge the receipt of your three communications of the 3d, 7th, and 12th instant, with their enclosures, in relation to the

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capture, trial, and execution of Prince Ferdinand Maximilian of Hapsburg, and of Generals Mejia and Miramon, late of the imperial army, in Mexico.

I avail myself of this opportunity to renew to you, sir, the assurances of my distinguished consideration.

WILLIAM H. SEWARD.

Señor Don MATIAS ROMERO, *&c., &c., &c.*,
Washington, D. C.

Count Wydenbruck to Mr. Seward.

WASHINGTON, *April 5*, 1867.

I have just received a telegraphic despatch from my court, on the subject of which I should be happy to speak with you. May I ask you to fix the hour when I can have the honor of seeing you to-morrow?

I remain, Mr. Secretary, with the highest consideration, your obedient servant,

WYDENBRUCK.

Mr. SECRETARY OF STATE.

Count Wydenbruck to Mr. Seward.

[Pro memoria.]

WASHINGTON, *April* 6, 1867.

The Emperor of Austria, my gracious Sovereign, has been informed that his brother is surrounded in Queretaro by the liberals. The fate of the prisoners after the battle of Zacatecas makes the Emperor anxious for his brother's safety, should he fall into the hands of the liberals. I received yesterday a telegram from my Court, instructing me to speak on the subject with Mr. Secretary of State, and to see if you would not be disposed to use your influence with Juarez to urge him to respect, in such an eventuality, the person of my Emperor's brother. Of course such a friendly intervention would also benefit the other eventual prisoners, particularly foreigners. We hesitate the less to make this application to you, Mr. Secretary, not only because we have confidence in the friendship of the American government, but because this government seems to have a right to demand from Juarez to respect prisoners of war, as it is in great measure to the moral support of the American government that the liberal party in Mexico owes its present successes.

WYDENBRUCK.

Mr. Seward to Count Wydenbruck.

DEPARTMENT OF STATE,
Washington, April 6, 1867.

MY DEAR COUNT WYDENBRUCK: With the President's approval I have this morning transmitted by telegraph a despatch to Mr. Campbell, a copy of which I place in your hands. I have also communicated to Mr. Romero, the Mexican minister plenipotentiary here, the sentiments of this government in regard to the exigency apprehended in Mexico. He gives me the assurance that he will lose no time in communicating the same to the government of Mexico.

I am, my dear Count Wydenbruck, very respectfully yours,

WILLIAM H. SEWARD.

Count WYDENBRUCK, *&c., &c.*

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Mr. Seward to Mr. Campbell.

[By military telegraph.—No. 1, via W. U.]

WASHINGTON, *April* 6, 1867.

LEWIS D. CAMPBELL, *U. S. Minister to Mexico,*
St. Charles Hotel, New Orleans, La.:

The capture of the Prince Maximilian in Queretaro, by the republican armies of Mexico, seems probable. The reported severity practiced upon the prisoners taken at Zacatecas excites apprehensions that similar severity may be practiced in the cases of the prince and his alien troops. Such severities would be injurious to the national cause of Mexico and to the republican system throughout the world.

You will communicate to President Juarez, promptly and by effectual means, the desire of this government that in case of capture, the prince and his supporters may receive the humane treatment accorded by civilized nations to prisoners of war. The expenses of making the communication to President Juarez will be defrayed by this department.

WILLIAM H. SEWARD.

Delivered to Mr. Campbell at 1.38 p. m., New Orleans time, to-day, April 6, 1867.

Count Wydenbruck to Mr. Seward.

Mr. SECRETARY OF STATE: In returning you the telegram from New Orleans, I can but renew the expression of my warmest thanks for the extreme kindness and promptness with which you have acted in this affair. The knowledge that your despatch will be sent at once to the proper quarter relieves me from very great anxiety.

I have the honor to remain, Mr. Secretary, with the highest consideration, your obedient servant,

WYDENBRUCK.

APRIL 6.

P. S.—Mr. Campbell's courier having so great a start, I think it superfluous to send Mr. Hotze. I shall, therefore, return next Monday to the department the passport you were so kind as to furnish me for him.

Mr. Hotze to Count Wydenbruck.

[Translation.—Received from Count Wydenbruck, 6th April, 1867.]

CINCINNATI, OHIO, RACE STREET, No. 166, *April* 4, 1867.

EXCELLENCY: In order to legalize my person I take the liberty of enclosing a letter of introduction to you which Baron Sago, (Austrian chargé d'affaires in Mexico,) had the goodness to give me. I was formerly captain in the Austrian general quartermaster's staff, then major and lieutenant colonel in the Mexican corps of Austrian volunteers; in consequence of my refusal, on the dissolution of this corps, to accept the post of chief of staff to General Marquez, I drew on myself the displeasure of the Emperor Maximilian. I have made application to reenter the Austrian army, and intend to spend one year with my brother, who lives here.

The wish to serve the Emperor Maximilian, as far as it lies within my power, induces me to address this letter to you. The position of this prince is extremely critical, and it is probable that he will fall into the hands of the republicans. The question now is, in this case, to assure his fate, or, to speak plainer, his life.

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To spare the world a bloody drama, and the imperial family in Vienna a terrible grief. I am not the less anxious for the fate of the Austrian legation in Mexico, the members of which are my personal friends. I know Mexico and the Mexicans.

If I take the liberty of drawing your attention to this subject, it is on account of the interest which it must have for you, and because it has nothing to do with *Mexican affairs*, with which the Austrian government has wisely had no connection. Your influence would, perhaps, succeed in inducing the Hon. William H. Seward to declare that the person of the prince must be respected, and, if not officially, at least through his influence over Juarez, to work in this direction, I offer myself to bring Secretary Seward's despatch without delay and by the shortest route to Juarez. I guarantee the secrecy of the contents.

During a year I was commander of the province of Oajaca, the birth-place of the President, and have left, as I hope, a favorable character; I stood in friendly relations to several of the President's family. Perhaps, it will still succeed to do something for the unfortunate prince before it is too late. It is possible, and my most ardent wish, that something has already been done, and probably better than my proposal. If, however, no step has yet been taken, I leave my proposal to your excellency's enlightened judgment. Should your excellency wish my presence in Washington I will come at once.

FREDERICK HOTZE.

Count WYDENBRUCK.

Count Wydenbruck to Mr Seward.

TUESDAY, *May* 28.

I hope you will excuse my troubling you so early with these lines.

The Chronicle of this morning gives the accompanying despatch as having been received at the State Department. May I ask, if this is really the case? as should the news of the capture of Prince Maximilian be official, it would be my duty to telegraph the same at once to Vienna.

I trust that should this serious event have taken place, your intervention of the 6th of April, will not only shield the life of the prince and his foreign followers, but will also insure to the prince honorable treatment and facilitate his embarcation for Europe.

I have the honor, &c.,

WYDENBRUCK.

Mr. SECRETARY OF STATE.

FROM THE STATE DEPARTMENT.

The following was received yesterday morning at the State Department:

Hon. W. H. SEWARD:

I have this moment received the following despatch by telegraph, via Galveston, dated at Matamoras, May 21:

"I have the honor to transmit the following official letter:

"'SAN LUIS POTOSI, *May* 15.

"'General BERRIOZABAL:

"'MY ESTEEMED FRIEND: *Vive la Patria.* Queretaro has fallen by force of arms this a. m. at 8 o'clock. Maximilian, Mejia, Castello, and Miramon are prisoners.

"'BENITO JUAREZ.'

"Yours truly,

"M. B. MARSHALL.

"E. P. PLUMB."

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Mr. Seward to Count Wydenbruck.

DEPARTMENT OF STATE,
Washington, 28th May, 1867.

COUNT: I have the honor to acknowledge the receipt of your note of this date, inquiring as to the authenticity of a telegram relative to recent events at Queretaro, published in the papers of this morning. In reply, I have the honor to inform you that the telegram referred to, having been received at this department from Mr. Campbell, United States minister at Mexico, who is now at New Orleans, is believed to be correct.

I avail myself of this occasion, count, to offer to you a renewed assurance of my very high consideration.

WILLIAM H. SEWARD.

Count WYDENBRUCK.

Mr. Beust to Mr. Wydenbruck.

[Received from Count Weydenbruck 29th May—half past 10 a. m.]

Renew earnestly the demand of a warm intercession of the American government for release. Answer by telegraph.

BEUST.

NOTE.—The above left at the Department of State by Count Wydenbruck.

Mr. Seward to Count Wydenbruck.

DEPARTMENT OF STATE,
Washington, June 1, 1867.

SIR: I have the honor to enclose herewith, for your information, a transcript of a despatch of the 28th ultimo, No. 31, which has just been received from the United States minister accredited to the government of Mexico, and a telegram of yesterday's date from the secretary of the legation.

I am, sir, with high consideration, your obedient servant,

WILLIAM H. SEWARD.

Count WYDENBRUCK, *&c., &c., &c.*,
Washington.

Mr. Campbell to Mr. Seward.

No. 31.

NEW ORLEANS, *May* 28, 1867.

SIR: Your despatches No. 26, dated April 30, No. 27, dated May 1st, and No. 28, dated May 20, were duly received.

I have no information in regard to the fall of Queretaro and the capture of Maximilian and his army other than that which has already been generally published in the newspapers. There are various conflicting reports here as to the disposition the government of President Juarez has ordered to be made of Maximilian and his leading chiefs. These are too vague and uncertain to be relied on, and therefore I consider it useless to repeat them.

I have the honor to remain, most respectfully, your obedient servant,

LEWIS D. CAMPBELL.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

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Mr. Plumb to Mr. Seward.

[Telegram from New Orleans, May 26, 1867.—Received at Department of State May 27, 1867, 9.35 a. m.]

Hon. WILLIAM H. SEWARD:

I have this moment received the following despatch by telegraph, via Galveston, dated at Matamoras, May 21:

"I have the honor to transmit you the following official letter:

"'SAN LUIS POTOSI, *May* 15.

"'General BERRIOZABAL:

"'MY ESTEEMED FRIEND: *Vive la patria!* (the republic lives.). Queretaro has fallen by force of arms this a. m. at eight o'clock. Maximilian, Mejia, Castillo, and Miramon are prisoners.

"'BENITO JUAREZ.'

"Yours, truly,

"M. B. MARSHALL."

E. L. PLUMB.

Mr. Plumb to Mr. Seward.

[Telegram from New Orleans, May 31, 1867.]

Hon. WILLIAM H. SEWARD:

Matamoras mail arrived to-night. No further advices than contained in my telegram of 26th.

E. L. PLUMB.

Count Wydenbruck to Mr. Seward.

Mr. SECRETARY OF STATE: I have just had the honor to receive your obliging communication of this day, and I hasten to express to you my very best thanks for it. Although I hope to have the honor of paying you my respects this evening, I did not wish to defer this expression of my acknowledgment, and hope that you will further favor me with any intelligence that you may receive as to the subject on which my Court and myself are so deeply interested.

I have the honor to remain, Mr. Secretary of State, your obedient servant,

WYDENBRUCK.

Hon. W. H. SEWARD, *Secretary of State.*

Mr Wydenbruck to Mr Seward.

WASHINGTON, *June* 12, 1867.

Mr. SECRETARY OF STATE: I have only been awaiting your return from your excursion to Raleigh to express to you my warmest thanks for the step you took on the 1st instant, immediately before your departure, in directing Mr. Campbell to repair to San Luis Potosi. I feel convinced that no measure could have been adopted more in accordance with the desires of my Court, with which I had again the honor of making you acquainted on the 28th and 29th of May;

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and that the presence of Mr. Campbell will not only prevent any act of violence towards Prince Maximilian, but will also insure his speedy release.

I avail myself of this opportunity to express to you, Mr. Secretary of State, the assurance of my highest consideration.

WYDENBRUCK.

Hon. W. H. SEWARD,
Secretary of State, &c., &c., &c.

Mr. Wydenbruck to Mr. Seward.

WASHINGTON, *June* 17, 1867.

Mr. SECRETARY OF STATE: During the last few days I have been feeling so very low, in consequence of the heat and of a touch of low fever, that I think it advisable to go at once for change of air into the mountains. I have fixed upon Oakland, in Maryland, and intend to remain there a short time. I regret very much that the suddenness of my departure has not allowed me to have the pleasure of paying you my respects.

Although my intention was not to leave Washington before knowing something positive as to the fate of Prince Maximilian, I yet do so with the less anxiety as I remember your kind promise of informing me at once, by telegraph, of such official news as may reach the State Department concerning the subject, which is of so deep interest to my Court.

I have the honor to remain, Mr. Secretary of State, with the highest consideration, your obedient servant,

WYDENBRUCK.

Hon. WILLIAM H. SEWARD,
Secretary of State, &c., &c., &c.

Count Wydenbruck to Mr Seward.

OAKLAND, MARYLAND, *June* 20, 1867.

I have just received the following telegram from Baron Beust:

"Request Mr. Seward to let Juarez know, and if possible Prince Maximilian, that the Emperor of Austria is ready to re-establish Maximilian in all his rights of succession as Archduke of Austria after his release and his renunciation of all his projects to Mexico.

"BEUST.'

I should be most obliged to the Secretary of State for a kind telegraphic answer, that I may inform my Court of your readiness in the matter.

WYDENBRUCK.

Hon. W. H. SEWARD,
Secretary of State.

Mr. F. W. Seward to Count Wydenbruck.

DEPARTMENT OF STATE,
Washington, June 21, 1867.

SIR: I have the honor to enclose herewith for your information a copy of a

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letter of the 17th instant, which has just been received from Lewis D. Campbell, esq., United States minister to Mexico.

I am, sir, with high consideration, your obedient servant,

F. W. SEWARD,
Assistant Secretary.

Count WYDENBRUCK, &c., &c., &c.,
Washington, D. C.

Mr. Campbell to Mr. Seward.

ST. CHARLES HOTEL,
New Orleans, June 17, 1867.

MY DEAR SIR: Your favor of the 12th instant is just received. As I am about leaving the city in a day or two, I have sent the letter of Mr. Bohman which you enclosed to Ramon S. Diaz, the Mexican consul, who will forward to San Luis Potosi.

Very truly yours, &c.,

LEWIS D. CAMPBELL.

Hon. F. W. SEWARD,
Assistant Secretary of State, Washington, D. C.

Mr. Seward to Count Wydenbruck.

[Telegram.]

DEPARTMENT OF STATE, *June* 21, 1867.

The good offices requested by the Emperor of Austria have been rendered.

WILLIAM H. SEWARD.

Count WYDENBRUCK,
Oakland, Alleghany county, Md.

Count Wydenbruck to Mr. Seward.

[Telegram.]

OAKLAND, MD., *June* 21, 1867.

Hon. WILLIAM H. SEWARD:

Many thanks. Just received this second telegram: "Imperial family consents to eventual reintegration of Prince Maximilian. Try to let him know this. BEUST."

May I hope that, if possible, this wish of my Court may be fulfilled through your exceedingly kind medium.

WYDENBRUCK.

Count Wydenbruck to Mr. F. W. Seward.

OAKLAND, MD., *June* 21, 1867.

You have already once been so kind as to take charge of a letter for the vice-consul of Hamburg in San Luis Potosi. May I so far trespass on your good-

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ness as to ask you again to kindly undertake to forward the enclosed letter to the same gentleman?

I avail myself of this opportunity to renew my request, should you receive official news concerning the Prince Maximilian, to be so very good as to let me have them by telegraph or letter; and remain, dear Mr. F. W. Seward, with highest consideration, yours very truly,

WYDENBRUCK.

Mr. FREDERICK W. SEWARD.

Mr. F. W. Seward to Count Wydenbruck.

[Telegram.]

DEPARTMENT OF STATE, *June* 22, 1867.

To Count WYDENBRUCK,
Oakland, Alleghany county, Maryland:

Your telegram of yesterday received, and its request complied with.

F. W. SEWARD.

Mr. F. W. Seward to Count Wydenbruck.

DEPARTMENT OF STATE,
Washington, June 23, 1867.

SIR: I have received your note of yesterday's date, and, in reply, have the honor to inform you that I will take pleasure in acquainting you with any official information which the department may receive concerning the Prince Maximilian.

The letter addressed the vice-consul of Hamburg at San Luis Potosi, which accompanied your note, will be promptly forwarded to its destination.

I am, sir, with high consideration, your obedient servant,

F. W. SEWARD,
Assistant Secretary.

Count WYDENBRUCK, &c., &c., &c.,
Oakland, Maryland.

Count Wydenbruck to Mr. Seward.

[Telegram.—Received at Willards', June 29.]

OAKLAND, MD., *June* 29, 1867.

W. H. SEWARD, *Secretary of State:*

I have just received from New Orleans the terrible news that the Archduke Maximilian has been shot. Have you any such news?

WYDENBRUCK.

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Count Wydenbruck to Mr. Seward.

[Telegram

OAKLAND, MD., *June* 30, 1867.

Hon. W. H. SEWARD:

I received yesterday from Mexico the official news that the unfortunate emperor Maximilian was shot June nineteenth, (19th,) seven (7) morning.

WYDENBRUCK.

Mr. Seward to Count Wydenbruck.

DEPARTMENT OF STATE,
Washington, July 1, 1867.

I avail myself of the first convenient hour after arriving from Boston to inform you that at the moment of my departure from this city on the 21st of June last, by direction of the President of the United States, I communicated to President Juarez, of Mexico, by telegraph, the proposition of his Imperial Majesty of Austria, that he would reinstate the Prince Maximilian in all his rights of possession as archduke of Austria as soon as the prince should be set at liberty, and should renounce forever all his projects in Mexico.

At an earlier date, namely, on the 15th, I had in like manner used the telegraph to make known to President Juarez the request of her Majesty the Queen of England, and of the Emperor of the French, for the good offices of this government in behalf of the Prince Maximilian.

This information may perhaps be of some slight value by way of soothing the sadness which the painful news concerning the fate of the Prince Maximilian, just received from Mexico, cannot fail to produce.

I have, &c., &c.,

WILLIAM H. SEWARD.

Count WYDENBRUCK.

Mr. Seward to Count Wydenbruck.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 3, 1867.

I regret to say United States consul, Matamoras, wrote despatch June 27, received to-day, namely:

"Maximilian was executed on the 19th; city of Mexico surrendered on 21st."

United States consul, Vera Cruz, wrote despatch received and telegraphed from New Orleans July 2, confirming the execution of Maximilian, and surrender at discretion of the city of Mexico.

WILLIAM H. SEWARD.

Count WYDENBRUCK,
Oakland, Maryland.

Count Wydenbruck to Mr. Seward.

OAKLAND, MD., *July* 3, 1867.

The confirmation contained in your telegram of to-day's date, of the tragical event of the 19th of June, will destroy the last glimmer of hope entertained by the imperial family of Austria as to the fate of the unfortunate emperor

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Maximilian. Under these melancholy circumstances it would be extremely desirable for me to be able to apprise my court of the steps which have been taken by the United States government, in compliance with the pressing application which I had the honor to address to you on the 29th of May last.

On the first of June I informed my government by cable of the contents of your telegram of the same date, (kindly communicated to me by Mr. Frederick Seward,) by which you instructed Mr. Campbell to proceed without delay to Juarez's headquarters, with the mission to intervene for the protection of the life of the illustrious prisoner. Until the 17th of June I indulged the hope that Mr. Campbell was on his journey to execute your mission. I was then startled by the newspaper reports, confirmed by the official offer made to General Steadman on the same day, that Mr. Campbell, declining to proceed to Mexico, had resigned his post.

Although it does not become me to inquire as to the action of the State Department, I feel convinced that you, Mr. Secretary of State, taking into account the peculiarity of the circumstances, and sharing my desire to offer to the afflicted family of my august Sovereign the only consolation now possible, will not object to let me know if you have been able, notwithstanding Mr. Campbell's tardive resignation, to carry out your intervention in favor of the illustrious victim we deplore to-day.

The Austrian *chargé d'affaires* in Mexico informs me that Juarez refuses to deliver up the body of the unfortunate prince. This is a cruel aggravation of the unspeakable grief of the imperial family of Austria.

I have the honor to remain, Mr. Secretary of State, with the highest consideration, your obedient servant,

WYDENBRUCK.

Hon. WILLIAM H. SEWARD,
Secretary of State of the United States.

[Telegram.]

Count Wydenbruck to Mr. Seward.

OAKLAND, MD., *July* 3, 1867.

Hon. WM. H. SEWARD, *Secretary of State:*

The Austrian Court inquires telegraphically whether the American government has the sad news of the archduke's execution from any source of its own.

WYDENBRUCK.

Mr. Seward to Count Wydenbruck.

DEPARTMENT OF STATE,
Washington, July 5, 1867.

SIR: I have the honor to acknowledge the receipt of your note of the 3d instant. Information upon the subject to which it relates had already been communicated to you.

I am, sir, with high consideration, your obedient servant,

WILLIAM H. SEWARD.

Count WYDENBRUCK, &c., &c., &c.,
Oakland, Maryland.

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Count Wydenbruck to Mr. Seward.

[Telegram.]

OAKLAND, MD., *July* 8, 1867.

Hon. WM. H. SEWARD, *Secretary of State:*

It would be consolation for the imperial family to know emperor Maximilian's remains are in his own grave and coffin—if possible a metallic one. This is, perhaps, not the case. May we hope that Mr. Secretary will instruct American minister in Mexico to ask in American government's name that this be done? and perhaps be present at trans-exhumation, as Mr. Otterbourg knew person of emperor. Of course, all expenses refunded by me.

WYDENBRUCK.

Mr. Seward to Count Wydenbruck.

DEPARTMENT OF STATE,
Washington, July 8, 1867.

SIR: Your telegram of this date is received. The request it contains is reasonable, and the good offices of the government in that direction would in every way be proper. You will, however, notice in the public journals an unanswered application of a kindred nature which has already been made by Captain Roe to President Juarez.

I think it will be well, before acting on your present suggestion, to wait perhaps a day or two to learn what answer President Juarez has made to Captain Roe's solicitation.

When I shall have received that information I will again communicate with you upon the subject.

I am, sir, with high consideration, your obedient servant,

WILLIAM H. SEWARD.

Count WYDENBRUCK, &c., &c., &c.,
Oakland, Maryland.

Count Wydenbruck to Mr. Seward.

WASHINGTON, *July* 11, 1867.

Mr. SECRETARY OF STATE: I thank you for your obliging communication of the 9th instant, (8th.) As soon as the answer to Captain Roe's application shall be known to you, may I hope that you may have the goodness to have it telegraphed to me, in order that my Court may be informed of its tenor without loss of time.

I have the honor to remain, Mr. Secretary of State, with the highest consideration, your obedient servant,

WYDENBRUCK.

Hon. WM. H. SEWARD,
Secretary of State of the United States.

Count Wydenbruck to Mr. Seward.

OAKLAND, *July* 8, 1867.

Mr. SECRETARY OF STATE: In consequence of certain advices received today by me, and in order to lose no time, I took the liberty a few hours ago of expressing to you by telegraph the desire that Mr. Otterbourg, in Mexico,

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might be instructed to ask in the name of the government of the United States that the remains of the ill-fated emperor Maximilian may be (in case this should not already have been done) deposited in a grave of his own and enclosed in a suitable coffin—if possible a metallic one. All expenses to be refunded by this legation.

Trusting that it will be possible to procure this slight alleviation to the deep affliction of the imperial family, I have the honor to remain, Mr. Secretary of State, with the highest consideration, your obedient servant,

WYDENBRUCK.

Hon. WM. H. SEWARD,
Secretary of State, &c.

Mr. Seward to Count Wydenbruck.

DEPARTMENT OF STATE,
Washington, July 11, 1867.

SIR: Your note of the 8th instant has been received. In reply I have the honor to refer you to the communication which was addressed to you by this department on the 8th instant, in answer to your telegram of that date, both of which relate to the same subject.

I am, sir, with high consideration, your obedient servant,

WILLIAM H. SEWARD.

Count WYDENBRUCK, &c., &c., &c.,
Oakland, Maryland.

Mr. Seward to Count Wydenbruck.

DEPARTMENT OF STATE,
Washington, July 12, 1867.

COUNT: I have the honor to acknowledge the receipt of your note of yesterday, and to inform you, in reply, that it will afford me pleasure to telegraph to you the result of Captain Roe's application to which you refer.

I have the honor to remain, Count, your very obedient servant,

WILLIAM H. SEWARD.

Count WYDENBRUCK, &c., &c., &c.,
Oakland, Maryland.

Mr. Otterbourg to Mr. Seward.

No. 36.] CONSULATE OF THE UNITED STATES OF AMERICA AT MEXICO,
February 16, 1867.

SIR: Prince Maximilian left, as notified in enclosure No. 1, for Queretaro, accompanied by an army corps from General Marquez's division, estimated variously at 3,500 and 5,000 men.

The impression among those best informed upon subjects of this nature prevails that the emperor, convinced at last of the unsatisfactory results which the present situation promises for the country, goes with the object of extending propositions to President Juarez. The main desire of his Majesty is to obtain guarantees for those who as partisans have been compromised in his service, and to resign his position in favor of the liberal party.

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Enclosed, No. 11, is a copy of the protest addressed to this government by the foreign representatives against the recent contribution of one per cent., to which no reply has been returned by the office of foreign affairs up to the present hour. Aware of the result so far attendant upon the action of the diplomatic corps, I have refrained from the expression of any opinion which might positively influence the course of citizens of the United States, and the more, as the decree imposing this contribution affects American interests chiefly where it applies to the issue of licenses or patents, the tax upon which has never been greater than one-fourth of the amount collected upon capital or large mercantile establishments.

The liberals are fast closing in about the capital. Diego Alvarez occupies Cuernavaca with between 4,000 and 5,000 troops from the State of Guerrero, and has pushed his advance into the valley within a distance of four leagues from this city. On the road to Vera Cruz the forces of the same party are stationed at three leagues from Mexico. Since the withdrawal of the French army every courier to the coast has been intercepted, and the wires of the telegraph are cut in the interruption of the regular and usual communication with the port of Vera Cruz.

I have the honor to be, very respectfully, your obedient servant,

MARCUS OTTERBOURG,
United States Consul in charge of U. S. Legation.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

[Translation.]

Maximilian, emperor of Mexico: Wishing to be present at the operations of the army in the interior, and to obviate, meanwhile, delay in the despatch of the business of the government: We decree:

ARTICLE 1. During our journey into the interior, the minister, with the convenience of the president of the council of ministers, will despatch the business of their respective branches.

ART. 2. The president of the council of ministers will despatch alone, or in council with his colleagues, as he may deem convenient, matters of gravity and importance.

ART. 3. The minister, the council of state, and all the authorities and functionaries, civil and military, of the empire, will comply with the orders of the president of the council of ministers.

ART. 4. The despatch of the business of the government will be done in our name.

ART. 5. Neither laws nor decrees shall be abrogated or issued except in urgent cases, on hearing the president of the council of state, and the respective section of the same council, should the urgency of the case permit. The laws and decrees shall be issued in our name, and shall be signed by the president of the council of ministers, and countersigned by the minister of the respective branch upon his responsibility.

ART. 6. We reserve to ourselves the business of our house and court, with others which our instructions express.

Our ministers are intrusted with the execution of this decree so far as it appertains to each of them.

Given in Mexico, the 12th of February, 1867.

By the emperor:

MAXIMILIAN.
The Minister of Interior,
JOSEPH MARI.

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[Translation.]

MEXICO, *February* 9, 1867.

The undersigned, representatives of the friendly powers, residing in Mexico, have the honor to address his excellency the minister of foreign affairs, to inform him that a decree bearing date of the 1st of this month was published the same day in the imperial journal, which imposes an extra tax of one per cent. on city and country property, on manufacturing establishments, and on all commercial and financial affairs where a capital of more than one thousand dollars is invested, with the hard condition to those concerned who reside in the capital or in the valley, that even though the property is situated in other departments, they are to pay tax on it in the capital, when the tax is also assessed and paid in the places where the property is located.

Although this tax is called general, the undersigned cannot consider it as such on account of particular circumstances that caused its imposition.

The minister of finance, who advised the emperor to this, says plainly in the preamble to the decree, it is intended as a substitute for a forced loan exacted a few days before, but not carried out, because of the resistance offered, and the government did not wish to resort to coercion, so repugnant to its policy.

This declaration of the minister of finance leaves no doubt about the expression *forced loan*, from which foreigners would have been exempt as substituted by this extra tax so as to reach everybody. In fact, they are the same thing under different titles.

Foreigners being exempt from that species of contribution by virtue of the law of nations, and treaties in force between their respective governments and Mexico, relative to forced loans and extra taxes, the representatives of the friendly powers have, on previous occasions, protested against similar imposts on their countrymen, though imposed then, as now, on the condition that they were but for a *single time*; and they have been frequently renewed, and on this occasion twice within three months. The subjects of the nations whose representatives have the honor to address the minister of foreign affairs on this occasion have had recourse to their legations to claim the protection that is due them.

Urged by the necessity of granting it to them by reason of the short time fixed for the payment of the first half of the assessed quota, the undersigned are pleased to hope that the imperial government will be kind enough to consider immediately their representations against a measure that largely involves the interests of their countrymen settled in Mexico.

A large portion of the foreign commerce is now in a precarious condition, owing to the system adopted for the imposition of the patent tax, which is not calculated upon the amount of the effective capital possessed by the proprietors of commercial establishments, but for the inhabitants of the capital, in relation to the place where they reside, and to the kind of business in which they are engaged. The result is, that merchants having only $10,000 capital pay for $40,000, by reason of the place where they live—that is, they pay four per cent. when those having $40,000, but living in a place less advantageous for their business, pay only one per cent.

In spite of the injustice of this system of taxation, instead of reforming it, as was hoped, the government increased it in 1866, by one per cent., so that merchants now pay two per cent. for their patent right.

Laying aside this considerable overcharge, and not considering the troubles of the country, and the complete stagnation of business, that under more favorable circumstances constitutes the prosperity of a nation, article four of the decree cited requires, not the one per cent., but "the triple of the quota that each would have paid per year for single tax, and not double, in conformity to the last qualifications that served for the payment of the last third of the year 1866."

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That the minister may judge of the injury of such a tax, we will mention the case of a Spanish subject who keeps a grocery and liquor store. He represents a capital of $5,000, as assessed by the board of 1865, for that purpose. That man will have to pay the imperial government in 1867, if not exempted from the extra tax, and if no new tax is imposed, as we fear there may be, for the remaining ten months of the year, the following sums:

1st. Patent right, payable every two months	$120
2d. For his house, two per cent. every three months	24
3d. For shop doors, three per cent.	120
4th. Patent of registry	23
5th. Three times the tax of one per cent.	90
Making a total of	377

which sum represents the third of his effective capital.

The position of property-holders who have real estate in the departments held by the dissidents is still more embarrassing than that of persons in trade. They not only have suffered, and still suffer in the present state of affairs, incalculable losses from the civil war, but the rebel authorities compel them to pay present and back taxes, established by the republican government, besides exactions and forced loans imposed by their military chiefs much too often, so that these proprietors, who certainly ought to be protected in person and property by the government, are abandoned by it, though involuntarily and by *vis major*, and are compelled to pay double taxes, which will certainly involve them in ruin at no distant day.

If the imperial government, from circumstances known to all, cannot act justly towards them, extending a hand to protect them, and preserve their interests, how can it exact from them, without violating those principles of equity and justice which they have for a motto, the payment of taxes, and even extra taxes like those that occasion the present remonstrance?

The undersigned, deeming it their duty to protest against an impost so injurious to their countrymen, have the honor to make the preceding statement and remonstrance to his excellency the minister of foreign affairs, in order to persuade the imperial government to take the necessary steps to relieve foreigners of this extra tax.

The undersigned embrace the occasion to renew to his excellency the assurance of their most distinguished consideration.

MARQUEZ DE LA RIBERA, *Spanish Minister.*
A. DANO, *French Minister.*
A. MAGNUS, *Prussian Minister.*
F. HOORICKS, *Belgian Chargé d'Affaires.*
F. CURTOPORSI, *Italian Chargé d'Affaires.*
B. DE LAGO, *Austrian Chargé d'Affaires.*
B. J. C. MIDDLETON, *English Chargé d'Affaires.*

His Excellency THOMAS MURPHY,
Minister of Foreign Affairs, &c., &c., &c.

Mr. Savage to Mr. Seward.

No. 312.] UNITED STATES CONSULATE GENERAL,
Havana, May 25, 1867.

SIR: The Spanish steamer Canarias sailed yesterday for Vera Cruz, carrying a large quantity of military stores and men for the so-called imperial service. The "Cuidad Condal" arrived this morning with the news that Queretaro fell

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on the 15th inst. Maximilian and all his generals and army taken prisoners they surrendered at discretion, according to the despatches from General Escobedo.

I have the honor to be, sir, very respectfully, your obedient servant,

THOMAS SAVAGE, *Vice-Consul General.*

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

[Telegram by cable, received at Department of State, Washington, June 1, 1867, at 2.35 p. m.

Mr. Dix to Mr. Seward.

Hon. Mr. SEWARD:

By special request of the Emperor, I use the telegraph to express his earnest wish that the government of the United States will exert all its influence to have Maximilian spared by his captors.

DIX.

Mr. Seward to Mr. Dix.

No. 77.] DEPARTMENT OF STATE,
Washington, June 1, 1867.

SIR: I have to acknowledge the receipt, this day, of a cable telegram from you, and in reply to state that every practicable proceeding in the direction therein referred to has been, and will continue to be adopted.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

Major General JOHN A. DIX, &c., &c., &c., *Paris.*

Commander Roe to Secretary Welles.

[Telegram received at War Department, Washington, D. C., June 30, 1867, from United States steamer Tacony, Vera Cruz, June 25, via New Orleans, June 30.]

SIR: Maximilian was shot on the 19th instant. Kord begged for his corpse for Austrian captain, and refused. Mexico is fallen, the twentieth (20th.) Vera Cruz holds out on account of foreign legion. Diaz orders no acceptance of surrender. Am moored between Nelva and North Bastion; Jason in company. Letter by mail.

F. A. ROE, *Commander.*

Hon. GIDEON WELLES, *Secretary of the Navy.*

Mr. Ulrich to Mr. Seward.

No. 23.] CONSULATE OF THE UNITED STATES,
Monterey, Mexico, June 26, 1867.

SIR: I have the honor to enclose notice of the execution of Maximilian and his generals, in an extra published here June 25, with translation.

Your obedient servant,

JOSEPH ULRICH, *Consul.*

Hon. WILLIAM H. SEWARD, *Secretary of State.*

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[Telegram from Queretaro to San Luis Potosi, June 19, 1867.]

Citizen Minister of War:

On the fourteenth of this month, at eleven o'clock p. m., were condemned by the council of war, Maximilian of Hapsburg, Miguel Miramon, and Thomas Mejia, to undergo the extreme penalty.

The sentence was confirmed by the general department on the fifteenth, and the sixteenth was fixed for its execution, which was suspended until to-day by order of the supreme government. It is now seven o'clock a. m., the hour at which these same Maximilian, Miramon, and Mejia were to be shot.

Please communicate this to the citizen President of the republic.

M. ESCOBEDO.

[Telegram for Queretaro, San Luis Potosi, June 19, 1867.]

Citizen General MARIANO ESCOBEDO, *Chief of the Army of the North:*

Your message of this date has been received, in which you announce that at seven o'clock in the morning were shot Maximilian of Hapsburg, Mejia, and Miramon.

MEJIA.

Mr. Ulrich to Mr. Seward.

No. 30.] CONSULATE OF THE UNITED STATES,
Monterey, Mexico, June 27, 1867.

SIR: Enclosed is a number of the Centinela newspaper, with translation of an article which, I suppose, may interest the department, as an indication of the feelings of the Mexican people as to the execution of Maximilian.

I also enclose "*Periodico official*," with particulars attending his trial.

I have the honor to be your obedient servant,

JOSEPH ULRICH, *Consul.*

MAGNANIMITY AND JUSTICE.

The government of the republic has issued a circular which, on account of its length, we do not republish, and in which it is ordered that all the generals of brigade who were taken prisoners at Queretaro, as well as colonels whose antecedents are especially culpable, shall be tried by a council of war, and by separate process. The same disposition has been made in respect to other individuals, who are notorious as robbers, such as Beneyes Pintos and others, against whom proceedings will be had separately, making another as well with Don Manuel Aguirre, minister of Maximilian, and the former prefect of Queretaro, Don Manuel Dominguez.

As regards the other prisoners, it has been decided that the colonels shall undergo the penalty of six years' imprisonment, the lieutenant colonels five, and the majors two.

The other classes of officers, prisoners, shall enjoy absolute liberty, with the sole condition that they shall live for two years under the supervision of the authorities, being allowed to change their residence as often as they choose, but

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always to ask passports, with which they shall present themselves to the authorities at their new places of residence. The nation, through the supreme government, has pardoned these, and numberless families bless in these cases the magnanimity of the government of the republic.

The law condemned them to death. The sword of justice was about to fall on the heads of these hundreds of miserable Mexicans, yet by an act of sublime generosity the blow was suspended, and not only their lives spared, but they were placed at liberty. Spectacle most glorious, which must shame those who pretend to fix upon the government of Mexico the stigma of being cruel and sanguinary.

But our government in no manner could extend her generosity, however much the nobility of her sentiments might advise her, so as to pronounce the pardon of the most prominent and principal chiefs, who have been the cause of the great evils which the nation has suffered during all these years of unjust war, but was compelled to proceed against them. To have done otherwise would have been a grave matter of responsibility to the republic, to the world, and to history, and would not only have furnished evidence of sublime generosity, but also of weakness inconceivable.

Maximilian, Miramon, and Mejia have been condemned to death by the council. Have they been executed? We cannot doubt it. Unfortunately for them, reasons could not be found sufficiently powerful to allow the exercise of a generosity which would be highly prejudicial to the republic, and which would really threaten more than ever her internal peace, and put in doubt her dignity and sovereignty.

We are entirely of the opinion of the New York Herald: the interference of the government of the United States to save the life of Maximilian, and, above all, the terms used and the mode employed by Minister Seward in the negotiation, have imperilled the situation of Maximilian, and have made it almost impossible to exercise towards him an act of generosity which, although it would have thrown censures on our government would have excited the admiration and provoked the eulogies of the world and of posterity. To-day the pardon of the archduke of Austria could not be granted without incurring universal censure, those being very few who would believe that we were influenced solely by the noble sentiments of humanity and magnanimity. These same friends of Maximilian and enemies of the government of the republic would comment on this act in a manner most unfavorable to our dignity. They have always endeavored to produce the belief that the Mexican people, and, to the nations of Europe, that the republican government, is in a state of traitorous dependence upon the United States; and, with the known bad faith of these men, try to throw in our face our obsequious docility, or worse—that we but obey (for certainly such was the order of Seward) the brusque commands of the American minister, Mr. Campbell.

After all we have passed through from foreign nations, and what he have just passed through from France, our susceptibility will not permit that there shall appear upon the horizon of our country even the shadow of dependence upon any nation. Our constant yielding to foreign nations, during all the period of our independence, has not gained us their good will, but their contempt. This yielding, perhaps from the weakness of our former government, could be in their eyes only so many proofs of lack of energy, want of dignity, and of little spirit, vitality, or vigor. We have now proved that it is not so, and although really we are weak, taking into consideration our material elements, we have in the hearts of the Mexicans a germ of independence and dignity such as makes us truly strong, and empowers us to defend the rights of our sovereignty and of our independence.

Well, then, if we have given such proofs, if the immense sacrifices which we have made shall not be unproductive, if we at last are to form a nation entirely

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free from all foreign yoke, if we aspire to enjoy the same rights and prerogatives as all other nations of the world, and if we wish at this new era that the principles admitted in the laws of nations all over the world be real to us also, we must not draw back in the moment of triumph. Let us follow the path which duty and dignity point out to us, guided always by the light of justice; for justice is strength, and let us show to the world our irrevocable determination to be free; and if there be one, or any nations, sufficiently unjust to desire to outrage or deny our nationality, it will not concern us, as long as justice is on our side. Why are we free and independent, if this liberty and independence be merely empty words, if it be a lie, if it be a farce? Let them conquer us, if they can, but let us not be humiliated.

But, no; it is impossible that there is a government in the world which has sufficient disregard for the law of nations to make reclamations for the chastisement of an adventurer, who has nothing superior to Count Raousset Boulbon than to be Archduke of Austria; and having been pushed forward in his enterprise by Napoleon, who furnished troops, it is impossible that there is a nation in the world that will reproach us because we have applied our laws to but a small group of criminals, when all nations of the globe must be satisfied that we have not only this right, but also to exact from those who have caused us these damages and insults a corresponding reparation and indemnity. If we were a strong nation, we would already be preparing for this; but if we had been strong, the iniquity committed upon us by France would never have been committed.

At the commencement we were vacillating between the reign of justice and benignity and pardon in regard to the archduke; but on reflecting on the matter, and in view of the impolitic (or impolite) letter of Mr. Seward, and considering the proof of obstinacy given by the archduke himself, in his strong desire that in no way the only government which the nation has recognized should be respected and obeyed, endeavoring in the document which we inserted in our last number* that even after his death the strife between the Mexicans should continue, and this even after the genuine will of Mexico has evidently been made clear to him, we believe that the execution of this prince has been made indispensable under every aspect, because it is very likely that, according to his tenacity and obstinacy, he might make another attempt and risk the peace of the republic.

No. 2.

Santa Anna's case.

MR. ROMERO'S CORRESPONDENCE ON SANTA ANNA.—1866 AND 1867.

[Communicated with Mr. Romero's letter to Mr. Seward of April 20, 1867.—Translation.]

Mr. Romero to Mr. Lerdo de Tejada.

No. 800.] MEXICAN LEGATION IN THE UNITED STATES OF AMERICA,
Washington, November 30, 1866.

Mr. Tifft has given me a manuscript copy of one of the bonds which, as it appears, Don Antonio Lopez de Santa Anna has issued, pledging what he considers as his personal property. Mr. Tifft says that a person unknown to him took the original of this bond to his office, asking what was its value. The bond was for $500, with the signature of Santa Anna and several vignettes, among them his portrait, and the others representing his former possessions in the State of Vera Cruz, and his palaces (as they are there called) of Turbaco and St.

*Referring to the last will of Maximilian, made in view of his probable death, appointing a regency of three persons, Lares, Lacunza, and Marquez, to carry on the empire.

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Thomas. It is stated in the bond that the $500 will be paid by the subscriber in the money of the United States, in New York, on the 28th of June, 1868, the date of its issue being the 28th of June last, with an interest at the rate of seven per cent., payable at a bank the name of which was still in blank. It is stated in said document that it is one of a series of 1,500 bonds, the total amount of which is $750,000, and that the payment thereof is guaranteed with the possessions referred to, which have been duly mortgaged, and among them are specially mentioned 378 square miles of land in the State of Vera Cruz. The signature of Santa Anna appears as having been witnessed by two witnesses, and the document acknowledged before Richard L. H. Finch, a notary public in New York.

Mr. Tifft, having taken a copy of the bond, returned it to the party interested, informing him that it was worthless, because the property offered in it as a mortgage had been previously confiscated.

This is the means through which Santa Anna has sought to obtain large resources to carry out his plans, but which I do not believe has produced them as yet, nor will produce them in the future.

I renew to you the assurances of my very distinguished consideration.

M. ROMERO.

Citizen MINISTER OF FOREIGN RELATIONS, *Chihuahua.*

WASHINGTON, *April* 20, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

[Enclosure.]

UNITED STATES OF AMERICA.

[No. 338.] [$500.]

[Picture. Palace of Turbaco.] [Picture. Land and property in the State of Vera Cruz.]

First mortgage bonds.

Know all men by these presents that I, Antonio Lopez de Santa Anna, at present in the city of New York, am indebted to ———, or bearer, in the sum of five hundred dollars, which sum I promise to pay the bearer hereof in lawful money of the United States of America, on the 28th day of June, A. D. one thousand eight hundred and sixty-eight, in the city of New York, State of New York, with interest thereon from the 28th day of June, A. D. one thousand eight hundred and sixty-six, at the rate of seven per cent. per annum, payable annually at the banking house of ———, in the city of New York.

[Picture. Santa Anna.]

This bond is one of a series of fifteen hundred bonds, amounting to seven hundred and fifty thousand dollars, and the bearer hereof is entitled to the security derived from a mortgage deed of trust duly executed and delivered by said Antonio Lopez de Santa Anna to —— ——, trustees, and bearing even date with this bond, and covering several acres of property, in all amounting to about three hundred and seventy-eight square miles of land in the State of Vera Cruz, Mexico; together with two palaces and grounds, one situated in the island of St. Thomas, and the other in Turbaco, in the republic of New Granada.

[Picture. Palace of St. Thomas.]

In witness whereof, I have hereunto set my hand and affixed my seal this 28th day of June, A. D. one thousand eight hundred and sixty-six.

[SEAL.]

A. L. DE SANTA ANNA.

Sealed and delivered in presence of—

THENDEN C. VERMILYE.

THEO. WALSER.

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STATE OF NEW YORK, *city and county of New York:*

Be it known that on this —— day of ——, A. D 1866, before me, a notary public, duly commissioned and sworn, and residing in said city and county, personally came Antonio Lopez de Santa Anna, to me known to be the same person who executed the foregoing bond, and acknowledged to me that he executed the same.

In witness whereof, I have hereunto subscribed my name and affixed my official seal of office the day and year above written.

[SEAL.]

RICH'D L. H. FINCH,
Notary Public, N. Y. City.

WASHINGTON, *April* 20, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

[From the New York Herald, January 6, 1867.]

SUPREME COURT—CHAMBERS—BEFORE JUDGE G. G. BARNARD.

Novel method of "Raising the wind" for a wedding tour—Motion to discharge from arrest.

Dario Masuera *vs.* Vincente M. Juelbe *et al.*—The parties to this action formerly belonged to the household of General Santa Anna in this city. By the affidavit of the plaintiff it appears that in February last the defendants, under the firm name of Juelbe & Co., at St. Thomas, gave Santa Anna a note for $5,000 in gold, payable in six months, and that soon after it was made Santa Anna endorsed it to the plaintiff. Soon after the arrival of the general here with his staff, the defendant (Juelbe) informed the plaintiff that he was about to marry a very wealthy Cuban lady, and that he had not brought funds enough with him to pay his nuptial expenses and the plaintiff's note; that he intended to stay some time at Saratoga, make a very extensive wedding tour, and that it was a part of his plans to make a great show of wealth, so as the more surely to captivate his fair Cuban heiress. Accordingly he beseechingly requested the plaintiff, at various times, to give him up the note and sign a paper that it was sold to him, promising him faithfully, if he would do so, he would certainly pay the note or return it. The plaintiff demurred to the arrangement; but after he had again been besought by the defendant (Juelbe,) to give up the note, and had seen the delightful pictures which Juelbe drew of his future happy condition if he could only marry said wealthy lady, and it being the only way that he could raise the wind therefor, the plaintiff finally gave up the note, trusting to Juelbe's honor to pay it or return it. The affidavit then goes on to state that after Juelbe got possession of the note, he had it collected of his partner in St. Thomas, who, of course, thought that it was being paid to the plaintiff through Juelbe, the amount for the payment thereof being sent by him to Juelbe. But Juelbe, having possession of the note, took said amount and lived and is still living in elegant style with his rich Cuban bride whom he married a short time since. The plaintiff, having demanded the note, or payment of it "upon honor," thinks he has been cheated out of the note, and finds that he has lost all his rights thereon against Santa Anna by reason of his not being able to notify him of non-payment at maturity. Judge Barnard issued an order of arrest against Juelbe, holding him to bail in $8,000, and a motion was made yesterday to discharge the order of arrest on the ground that it is not such a case (under section 179 of the code) as will warrant an arrest. Decision reserved.

Coudert Brothers for the motion to discharge arrest; Royal S. Crane and L. R. Marsh, opposed.

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OBTAINING MONEY UNDER ALLEGED FALSE PRETENCES.

The host of General Santa Anna in trouble—The general reported among the victims, &c.

Gabor Naphegyi, alias Sonnenberg, was arraigned yesterday at the Essex Market police court on complaint of Hans Caspar Von Noslitz, of No. 213 Forsyth street. Naphegyi, it is stated, is the present host of General Santa Anna, and was brought to the city from his residence on Staten Island on a warrant issued by Justice Mansfield. The complaint charges him with obtaining money from the complainant by false and fraudulent representation, and is thus recited in the affidavit: During the month of October, 1866, the deponent being about to leave this city for Vera Cruz, was solicited by Naphegyi, then doing business as a commission merchant at No. 45 Beaver street, to cash a draft for him for $350 upon Garcia, Sevilla & Co., Vera Cruz, he (Naphegyi) stating that he had a large amount of money in the hands of this firm subject to his orders. Believing these representations, deponent, not having the money himself, took the draft and obtained the cash from Slomann & Edyre, upon giving his personal guarantee for its repayment. Subsequently, upon his arrival at Vera Cruz, deponent presented the draft to Garcia, Sevilla & Co., by whom it was instantly dishonored, this firm stating that the drawer had not then nor never had any funds in their hands; that he was a man of no credit, and was well known in Vera Cruz as a "common scoundrel." Deponent then paid the money back, upon his guarantee, to Slomann & Edyre, through their agent in Vera Cruz. Deponent further states that when he was leaving New York and when on the steamer, Naphegyi gave him a note, telling him not to open it until he got to sea, in which he admitted he had no funds in the hands of Garcia, Sevilla & Co, and requested deponent to pay the draft without presentation, and that frequently since he has admitted the falseness of the representations he had made, but refuses to refund the amount of the draft, and that his name is Sonnenberg.

Justice Mansfield held the accused for examination in $1,000, bail being at once entered. As he was leaving the police court, Naphegyi was rearrested by one of the sheriff's deputies upon a process issued some time since from one of the civil courts, and which could not previously be served because of the defendant's constant absence in another county, it being the principal object of the criminal prosecution to effect his removal here to render him amenable to this order of arrest. He was subsequently relieved by the sheriff upon giving bail in two sureties of $25,000 each. It has been said that other and similar suits are pending or about being commenced against Naphegyi, in one of which his guest General Santa Anna is or will be the plaintiff. The cause of action has been asserted to be the fraudulently obtaining by the accused from the general of a power of attorney, under the authority of which he disposed of a valuable real estate property in New Grenada, belonging to the general, and appropriating the proceeds to his own use. This is, however, not given upon positive knowledge, but simply as what has been said; its truth is not vouched for.

[From the New York Tribune, June 22, 1867.]

To the Editor of the Tribune:

SIR: The credit of the country, and possibly the claims of justice, may yet demand a full investigation into the mystery which envelops the present whereabouts of General Santa Anna, as well as the circumstances which surrounded him at Staten Island. When everything is known—suppose such an *exposé* possible—the facts may furnish another loud "cry 'gainst the deep damnation

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of his *taken off*." We have strong suspicions of the genuineness of all the pronunciamentos, telegrams, and rumors, from Mexico and elsewhere, touching this whole business relating to Santa Anna and his movements.

The *exposé* of Antonio, the nephew of Santa Anna, clearly points to a conspiracy on the part of the set who had him in their charge at Habana island to prevent all access to him by his friends. We have heard that this vain old man, whose mind had become so impaired, or was so "weak," as to make him an easy victim, through appeals to his vanity and ambition, was made to believe that he was in communication with the Secretary of State, the President, and other important officers of the United States government. It is said that parties were daily introduced to him as government ministers, agents, and messengers, bearing important communications. That documents bearing the signatures of Mr. Seward and other government officials were shown to him in English, which he could not read, and then translated to suit the purposes of those about him, and that he was thus constantly duped, and made to believe himself the "coming man" in Mexico, whom the people were ready to hail with acclamation. Large sums of money, it is believed, were thus obtained from him, ostensibly to fit out an expedition to reinstate him in Mexico. That he gave a power of attorney, absolute and unreserved, over all his affairs to one of this party, who has already hypothecated or mortgaged his valuable estates in St. Thomas and in Mexico, professedly for the same purposes. With this large amount of money in their hands, and the way clear for obtaining more, it is clear that there was a motive of the most powerful kind for getting finally rid of the would-be dictator and for pocketing his gold.

To accomplish this with the least possible suspicion, the old man has been put on board of a steamer and first landed at San Juan del Ulloa, Vera Cruz. Here comes in the "report," by the way of Havana, published in the papers to-day, that Santa Anna was compelled to re-embark on the 4th on board the Virginia; that he was afterward forcibly taken from the steamer at Sisal, tried by a court-martial, and condemned to be hanged.

Now, this whole affair from beginning to end looks to us like a well-arranged conspiracy, whose object has been to wrest from the old general his large fortune, to divide the amount, and then to get rid of him by the shortest possible route—through betraying him into the hands of the liberals, after they had first put him down at Vera Cruz in the interests of imperialists.

It would be well for the officers of the government to have a sharp lookout for the Virginia when she makes her appearance at this point again, and require a strict account of her mysterious voyage.

MEMPHIS, TENN., *February* 28, 1867.

SIR: I am requested to inquire of you, if there is any objection on the part of the republic of Mexico, to parties going there under the influence of General Santa Anna.

Yours respectfully,

A. C. RETEHAM.

Hon. Señor ROMERO.

WASHINGTON, *March* 3, 1867.

SIR: In reply to your letter of the 28th ultimo, just received, asking me "if there is any objection on the part of the republic of Mexico to parties going there under the influence of General Santa Anna," I have to state that General Santa Anna has been a supporter of French intervention in Mexico; that sub-

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sequently to that he offered his services to the national government of the republic, President Juarez declining to accept them; that he is understood to work now with some parties in movements hostile to the republic of Mexico and its government; that in these plans he has not the sanction of the Mexican government; and that if he succeeds in deluding any citizens of this country, and taking them to Mexico, it would be to make them enemies of the republican government existing there.

Should you like to have any further information on this subject, I beg leave to refer you to House executive document No. 17, thirty-ninth Congress, second session.

I am, respectfully, your obedient servant,

M. ROMERO.

A. C. RETEHAM, Esq., *Memphis, Tenn.*

Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
June 14, 1867.

Mr. Seward presents his compliments to Mr. Romero, and has the honor to enclose a copy of a telegram of the 8th instant from the United States consul at Vera Cruz.

Mr. Saulnier to Mr. Seward.

[Telegram, via Pensacola, June 13, 1867.—Received at Department of State June 14, 1867.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Vera Cruz, June 8, 1867.

Hon. WILLIAM H. SEWARD:

SIR: General Santa Ana and staff—four officers—arrived here on the 3d instant from New York. Santa Ana landed in the castle San Juan de Ulloa the same evening. On the 5th instant he was forcibly placed on board the Virginia again. This day he leaves here on board the Virginia. Letters per mail.

E. H. SAULNIER,
United States Consul.

Mr. Romero to Mr. Seward.

[Translation.]

MEXICAN LEGATION IN THE UNITED STATES OF AMERICA,
Washington, June 14, 1867.

MY DEAR SIR: With your verbal note of this date I received a copy of the telegram addressed to you on the 8th instant by the United States consul in Vera Cruz, informing you of the arrival in that port of Don Antonio Lopez de Santa Anna, and of his re-embarcation for New York in the steamer Virginia.

In thanking you for the kindness you show in furnishing me the information, I remain your very obedient servant,

M. ROMERO.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

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Mr. Romero to Mr. Seward.

[Translated.]

WASHINGTON, *June* 24, 1867.

MY DEAR MR. SEWARD: I send you a copy of the Imparcialidad, of Vera Cruz, of the 9th instant, in which is published the action of the junta, which, on the 3d instant, the principal officers of the garrison held at that place on occasion of the arrival in the steamer Virginia of Don Antonio Lopez de Santa Anna.

From this document it appears that Mr. Santa Anna stated that he was going to Mexico under the protection of the United States, and had with him North American soldiers and abundant supplies of munitions of war.

The proposals made by Mr. Santa Anna for the purpose of inciting another rebellion in Mexico which would inaugurate a fresh civil war having been taken into consideration, the junta resolved unanimously to reject them, notwithstanding all the persons who composed it are Mexicans who have gone astray and had joined the army invading the country, and are still striving to sustain an order of things which no longer has existence in Mexico.

The importance of this document has decided me to send it to you without delay. I also enclose a translation of it.

I am your very respectful and obedient servant, M. ROMERO.

FREDERICK W. SEWARD, Esq., *&c.*, *&c.*, *&c.*

[Translated from La Imparcialidad, Vera Cruz, June 9, 1867.]

Acta or minutes of the council of war at Vera Cruz on Santa Anna's proposals.

At the invitation of his excellency the imperial commissary the following persons having met in the city hall of the heroic city of Vera Cruz, at ten o'clock p. m. of June 3, 1867, viz: the civil prefect of the department, the generals, officers of the line, corps commanders, and the general of artillery, Don Santiago Cuevas, a junta was formed, and Lieutenant Colonel Don Angel J. Arzamendi, of the municipal guard, chosen secretary.

The imperial commissary stated that the object of the meeting was to learn the opinion of the officers present on certain grave events. * * * General Antonio Lopez de Santa Anna, now in this harbor, had addressed him a letter inviting him to be present at a conference on board the steamer Virginia, which he accepted, and went aboard of said vessel in company with the general-in-chief, Don Antonio Taboada. According to information which he had, the capture of Queretaro was a fact, and that the city of Mexico would probably soon be captured by Don Porfirio Diaz. The idea put forth by said General Santa Anna was to set up the republic in place of the empire, and he (the commissary) wished to know if the officers present were willing to consent to such a change, and if so, to resign their positions, as it was not possible for him, as imperial commissary, to sanction an act contrary to his announced principles.

General Antonio Taboada said that, besides what his excellency the imperial commissary had just announced, it became necessary to inform the officers of the garrison of the different phases now presented by the general situation of the country, and especially the position of this place, (Vera Cruz), whose destiny was confided to their loyalty and patriotism; that his duty as a soldier of the empire—his sacred obligation—was to defend the imperial government even to the shedding of the last drop of his blood; and that he would never consent to sign any kind of agreement with an enemy of the empire; that he was sure all his worthy companions and subalterns thought and would act as he did, and would not shrink before any opposition. Nevertheless, they considered it a duty to inform the valiant defenders of the place of the necessity there was for the two leading authorities to conciliate the interests of humanity as well as the

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exigencies of a hostile population who had borne a siege of nearly three months, accompanied by a scarcity of resources, isolation from the rest of the country, complete ignorance of the real state of affairs in the interior, and a heterogeneous mass of elements on which reliance was placed for a prolongation of the struggle. It was necessary to take into account the fact that the foreigners in the service of the empire were not accustomed to the heroic sacrifices and the sufferings incident to our difficult position, and he believed they would not have the same patriotic stimulus to keep their self-sacrifice up to the level of that shown by our tried Mexican soldiers in resisting hunger, misery, and all kinds of privations. Should the moment come when their money would give out and they should have no means to pay the garrison, it might become necessary to have recourse to the violent and odious measure of forced loans, which for the greater part would fall on foreign houses, and from this might grow an international conflict. Moreover, the arrival of Santa Anna in the harbor of Vera Cruz, bringing with him the necessary means, foreign soldiers, and under American protection, (as he states,) had aggravated the situation of Vera Cruz. All of these reasons, together with others which he made known, had forced the imperial commissary and himself to call together the officers of the garrison to lay said reasons before them and submit them to their consideration. Should the decision of the garrison be to adhere to General Santa Anna's proposals, he (Taboada) would resign his command and go abroad.

General Don José D. Herran, second in command at Vera Cruz, said that his decision also was to resign; that whatever might be the reply of the corps commanders it should be made with the certainty that their men would support it; that the scarcity of resources alluded to by his excellency the imperial commissary should be kept in mind, and that there were among the garrison foreigners who could not bear as much suffering as the Mexican soldier, and that with them the latter would have to succumb.

Don Miguel Salledo, chief of police of Cordova, said that he was a patriot and would uphold whatever his chiefs would agree to.

Don Juan Jimenez, captain of the Cordova dragoons, said that as a soldier and a patriot he would uphold the same to the last.

Don Pedro Martos, commander of militia, said that his opinion was in favor of defending the empire to the last extremity; that, personally, he esteemed General Santa Anna, but he could not uphold the principle which the general proclaimed.

Don Manuel Linarte, commander of the Orizaba dragoons, said that he would obey his superiors, but he would never compromise in favor of the principles proclaimed by an enemy.

Lieutenant Colonel Don Lorenzo Joji said that if their resources were so scant he would submit to the decision of the majority.

Don Miguel Benavides, lieutenant colonel of the civil guard of Orizaba, said he awaited the decision of the superior officers present.

Don Angel J. Arzamend, lieutenant colonel of the city guard of Vera Cruz, said that the people of Vera Cruz were republicans, and that on taking up arms at the invitation of his excellency the imperial commissary, it had been because the emperor Maximilian had shown in all his actions that his government was not despotic, but a moderate democracy; and that when the imperial commissary resigned his office his own command ceased.

Don Eduardo Soudriet, lieutenant colonel of the city guards, said that so soon as Santa Anna should land at the head of American soldiers his command was at an end.

Don Jorge Murcia, lieutenant colonel of the Vera Cruz auxiliaries, said that the sovereign had intrusted the place to the garrison to be defended, and he was resolved to do so; that General Santa Anna held the hearts of the garrison as a leader in the war of independence, but that he (Murcia) could not agree to his bringing American soldiers there.

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Don Eduardo Figuerero, colonel of the Vera Cruz cavalry, said he wished to know if there was any positive news of the destination of the imperial army, and the imperial commissary replied that he knew nothing positive. Señor Figuerero then stated that he highly esteemed General Santa Anna, but he rejected the idea that he should fight against the empire with soldiers brought from the United States.

Don Manuel Lorente, colonel of the civil guard, Vera Cruz, said as long as nothing is known positively as to the emperor's fate he was bound to support the empire.

Don Mariano Camacho, colonel of the eleventh. I have a solemn engagement with the imperial commissary. If he relieve me of it I will take whatever course shall seem fit. But I will not accept General Santa Anna as my chieftain.

General Don Manuel Sanches, commander of first and second districts. If we are not sure of pecuniary resources I fear bad results among the garrison.

General Don Juan De Dios Arzamen, commander of the third and fourth districts. If the army no longer exists and the emperor is a prisoner, our engagement to support the empire has ceased.

General Don Santiago Cuevas, of the artillery. As this is a council of war I cannot give my opinion; but, as it has been stated that I belong to the army, and as I am with the garrison, I must reply that General Santa Anna should not be allowed to enter the place, since he is backed by American soldiers and sustained by the American government. Our country has already felt one foreign intervention, and it should be spared any more. The scarcity of means should not frighten us, for Mexican soldiers are long-suffering and accustomed to bear up under all kinds of privations. Señor Soudriet, being a foreigner, gave an example that should be adopted, so as to prevent any more intervention.

Colonel Manuel Llorente. The conduct of Señor Soudriet is very praisworthy.

Don Antonio M. Robledo, civil prefect of the department. As a representative of the government I am bound to stand by the last soldier of the empire. The patience of the Mexican soldier is proverbial; but as we have foreigners in the garrison I wish to know from Señor Soudriet how many days his men could hold out without relief.

Señor Soudriet. I think they can hold out as long as five days.

General Don Tomas Marin, in command of the naval division for Vera Cruz, Tuxpan, and Tehuantepec. If we have no pecuniary relief to fall back on I fear a capitulation with the enemy. If the republican party proclaim Juarez as its master I shall go abroad. I am totally disgusted with General Santa Anna on account of his abandoning the country in 1855, but I would rather fall into his hands than into those of demagogues, although I distrust his good faith on account of the protection given him by the American government.

Lieutenant Colonel Miguel Benavides. I have listened to the opinions of the other commanders, and my resolve is to sustain the empire. I would rather leave the country than compromise with the enemy.

As the majority were in favor of the negative—that General Antonio Lopez Santa Anna be not allowed to enter Vera Cruz—the imperial commissary declared the meeting over, and these minutes were signed by him and the other officers composing the meeting.

DOMINGO BUREAU,
Imperial Commissary.
A. TABOADA,
General Commanding at Vera Cruz.
J. D. HERRAN, *Second in Command.*
A. M. ROBLEDO, *Civil Prefect.*
T. MARIN, *Chief Naval Officer.*
J. S. D. ARGAMEND,
General in Command of First and Second Districts, &c.

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General Don Santiago Cuevas refused to sign the above minutes on the ground that they were not accurate, and has published the following card:

MEXICAN IMPERIAL ARMY,
Vera Cruz, June 9, 1867.

I stated at once in the junta my surprise that questions of so grave and paramount importance should be submitted to the deliberation of a council of war. In the course of the discussion I stated, in substance, that, as it was to be inferred from what General Taboada had said, as well as from General Santa Anna's proclamation, that the latter came forward as the agent and emissary of the Washington government, it seemed to me that his proposals should be rejected and that he should not be allowed to land; that the line of conduct which the garrison should follow was very simple, as it was reduced to this, to fulfil their duty by supporting the emperor, Maximilian, until it became authentically and officially known that he had abdicated. Nor should the scarcity of means make them swerve from duty, for the history of our country abounds in examples of long-suffering and brave garrisons fighting hand to hand with the enemy and heroically confronting at the same time all the horrors of hunger and privation. I concluded by exhorting my comrades not to cast a stain on the history of their past career by joining in any disloyal conduct, or deserting their cause and thus deepening the abyss of evils from which our unfortunate country was now struggling to relieve herself. Her whole misfortune is owing to her having just begun to enjoy the fruits of her independence, at a time when she had for a neighbor a powerful nation that coveted her territory, and has undermined her political existence from the very beginning through the Yorkite Masonic lodges and other disreputable means.

SANTIAGO CUEVAS,
General of Brigade.

Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, July 1, 1867.

SIR: I have to acknowledge the receipt of your note of June 14, enclosing a copy of "La Imparcialidad," containing the proceeding of a junta of officers attached to the garrison of Vera Cruz, in relation to a proclamation of Antonio Lopez de Santa Anna.

I avail myself of this occasion to renew the assurances of my high consideration.

WILLIAM H. SEWARD.

Señor DON MATIAS ROMERO, *&c. &c., &c.*
Washington, D. C.

Mr. Romero to Mr. Seward.

[Translation.]

MEXICAN LEGATION IN THE UNITED STATES OF AMERICA,
Washington, July 4, 1867.

MR. SECRETARY: Accepting your suggestion, at our interview this morning, that I had better transmit you a copy of the communication I showed you of General Martin Cepeda Peraza, governor of the State of Yucatan, dated in Merida the 21st of June last, in relation to the arrest in the port of Sisal of Don Antonio

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Lopez de Santa Anna, I have the honor to remit you a copy of that communication and of various documents relating to it, which are given in the accompanying index.

I think proper to call your attention to the following facts, clearly made known by the said documents:

1. That Don Antonio Lopez de Santa Anna went to Mexico for the purpose of promoting an insurrection, which, by proclaiming him chief of the country, would occasion a new civil war in that republic.

2. For that reason the Mexican authorities had not only the right to arrest him but it was their duty to do it, in order to prevent the disturbances he sought to excite.

3. That Don Antonio Lopez de Santa Anna disembarked at Sisal, by invitation of the captain of the port, without resorting to violence of any kind.

4. That, as soon as he landed, General Cepeda gave orders to have him arrested as a conspirator against order and public peace and sent to Campeche, to the disposal of the President of the republic, and he remains there yet.

I have already informed your department that when Don Antonio Lopez de Santa Anna set out for Vera Cruz he said it was with the sanction and support of the United States government, and that he had plenty of men and abundant resources from this country destined to support his pretensions; and now I must inform you that it seems true, from the annexed documents in the testimony of Commander Roe, of the United States steamer Tacony, and in the testimony of Mr. Santa Anna himself, (No. 7.)

I am pleased to have this opportunity to renew to you, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

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Index of documents sent by the Mexican legation to the Department of State of the United States, with the note of the 4th of July, 1867, in relation to the arrest of Don Antonio Lopez de Santa Anna, at Sisal.

No.	Date.	From—To.	Contents.
	1867.		
1	June 21	The governor of Yucatan to Mr. Romero.	Transmits his note to Mr. Lerdo de Tejada, of the same date, giving an account of the arrest of Santa Anna.
2	June 12	The same to the governor of Campeche.	Notifies him that Santa Anna and Vidal y Rivas are sent prisoners at the disposal of the general government.
3	June 15	The governor of Campeche to the governor of Yucatan.	Reports arrival of the prisoners.
4	June 15	Mr. Santa Anna to General Peraza.	Letter written on board the Virginia, reporting his arrival, and enclosing copies of an address to the people of Yucatan.
5	June 15	Mr. Santa Anna to the citizens of Yucatan.	The address in which he offers to mediate between parties, and announces he will issue a manifesto to the nation when he reaches Vera Cruz.
6	June 8	.....	The account of the captain of the Virginia and of persons present, of the way in which Santa Anna was taken from that steamer by Captain Roe, of a vessel of war belonging to the United States, and Captain Jason of an English war vessel.
7	June 8	.....	Dialogue between Captain Roe and Santa Anna, on board the Tacony, written by Santa Anna's interpreter.
8	June 8	Mr. Vidal y Rivas to Don Antonio Taboada, commander of the imperial garrison in Vera Cruz.	Letter written on board the Virginia, off Sisal, complaining of events, and intimating that Santa Anna's design was to assume the supreme command in the republic.
9	June 11	The same to a chief in Vera Cruz.	Letter saying a vessel was to come to Vera Cruz from the United States, with a battalion of Irish and sharpshooters for Santa Anna.
10	June 12	Mr. Santa Anna to General Peraza.	Letter written on board the Virginia, announcing his arrival at Sisal, and proposes to General Peraza to act as mediator between him and the so-called imperial commissary Salazar, or to fight against the latter.

IGNO. MARISCAL, *Secretary.*

WASHINGTON, *July* 4, 1867.

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[Translation.]

No. 1.—Mexican republic.—government and military commandancy of the free and sovereign state of yucatan.

On this day I communicate to the citizen minister of relations of the republic what is here copied:

"On the 11th of the present month, the American merchant steamer Virginia, Captain John Deaken, anchored at Sisal with the object, as it seemed, of taking in cargo and proceeding to Havana; but the fact of ex-General Don Antonio Lopez de Santa Anna being aboard attracted the attention of the authorities of the port and caused some alarm, as was natural.

"This man's precedents, and his late stay in the United States, could only tend to stir up discord among Mexicans; his former constant passion, shown at various times in his existence to provoke disturbances, seize on the command and use it to his profit, were recollections too alarming not to arouse suspicion, and his sudden appearance on the coast of Yucatan was calculated to cause fear.

"Suspicion became fact, when Lieutenant Colonel Don Hilario Mendez, who came a passenger in the Virginia, presented himself to the captain of the port of Sisal, and gave him a package from Santa Anna. The package contained documents of such a nature as to leave no doubt about his designs in coming to Vera Cruz in the Virginia, and then going to Sisal; they were evidently to disturb the condition of things in the republic and create embarrassment for the President in his attempt to obtain a prompt and complete triumph of the liberal principle. In consideration of such proof, the captain of the port of Sisal thought proper to station several of the small boats of the squadron anchored in the bay, around the Virginia, merely to watch operations, and without hostile intentions. He then went on board, accompanied by citizen Manuel Mendiola as interpreter, and invited Santa Anna to come ashore. Captain Deaken objected, and threatened to steam away with all on board, nothwithstanding the general said the Americans had mistreated him at Vera Cruz, and he was treated no better on the Virginia. The invitation was repeated and the general went ashore voluntarily. Learning what had happened, and aware of the meaning of Don Antonio Lopez de Santa Anna's arrival in Sisal, I ordered him to be arrested, taken to the neighboring State of Campeche, placed at the disposal of the President of the republic and recommended to the governor, citizen Pablo Garcia. I did this, because that place has more conveniences and greater security, and I was too busy with the siege of the capital to attend to anything else. After this, it is somewhat singular that Captain Deaken put to sea without doing any business at Sisal, for which he said he had come, or making any protest before the vice-consul of his nation, or any other authority.

"It is not strange that Captain Deaken did not protest against Santa Anna's arrest, because it was done peaceably, without violence, while he was on shore, nor was it in the legitimate sense of the word an extradition; but it is strange he proposed to take no cargo, when he said he had come purposely for it. In my opinion, this shows, either that the Virginia was chartered by Santa Anna, and he agreed that the steamer should leave; or that Captain Deaken left of his own accord, as he could not deny the purpose of the ex-dictator of Mexico, and renounced the right of demanding respect to a neutral and friendly flag.

"The certificate signed by Captain Deaken and the officers of the Virginia in favor of Santa Anna, on account of what happened between him and the English and American commodores in the waters of Vera Cruz, is an explanation of his strange conduct in Sisal.

"I enclose, citizen minister, a series of documents, numbered from 1 to 7 inclusive, which I hope you will communicate to the citizen President of the republic, so he may decide what is to be done with the prisoner, who remains in the fort of Campeche, at your disposal.

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"I embrace this opportunity, citizen minister, to repeat to you the assurances of my attentive consideration and respect."

And I have the honor to transmit this to you, for your information, that you may know what happened to ex-General Santa Anna in Sisal, and may be able to give, in case of necessity, the proper explanations to the cabinet in Washington.

In conclusion, I protest to you the assurances of my high regard.

Independence and liberty! Merida, 21 June, 1867.

M. CEPEDA.

E. ANCONA, *Secretary.*

Citizen MATIAS ROMERO,
Minister of the Mexican Republic, in Washington.

WASHINGTON, *July* 4, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 2.—MEXICAN REPUBLIC.—GOVERNMENT AND MILITARY COMMANDANCY OF THE FREE AND SOVEREIGN STATE OF YUCATAN.

At this moment, seven o'clock in the evening, I have just received an official communication from the military commander of Sisal, informing me that ex-General Antonio Lopez de Santa Anna and his father-in-law, L. G. Vidal y Rivas, had been captured on board the American steamer Virginia. I have official documents in my possession, of which I will send you copies, proving in an undoubted manner that Santa Anna, after his many crimes, attempted a political movement against the legitimate government of the republic; and as the present condition of this State does not offer a secure place of imprisonment for those two individuals, I send them to you in charge of Commander Luis I. Gomez, who receives them in the war canoes Hidalgo and Republicana, that you may confine them in your fortress till the supreme government of the nation disposes of them. I report the event to the government that it may act in the case as may seem most expedient. I hope your patriotism will induce you to lend this service to the nation with zeal and pleasure.

Independence and liberty! Merida, June 12, 1867.

M. CEPEDA.

Citizen GOVERNOR AND MILITARY COMMANDER
of the State of Campeche.

WASHINGTON, *July* 4, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 3.—MEXICAN REPUBLIC.—GOVERNMENT AND MILITARY COMMANDANCY OF THE STATE OF CAMPECHE.

The persons of ex-General Santa Anna, and his secretary L. G. de Vidal y Rivas, were captured in the port of Sisal, on board the American steamer Virginia and as there is no safe prison for them in this State, they were delivered yesterday to citizen Luis I. Gomez, commanding the canoe Hidalgo, who brought them here and placed them in safe custody, till the supreme government of the

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republic shall decide what is to be done with them, as he states in his despatch of the 12th instant.

Independence and liberty! Campeche, June 15, 1867.

P. GARCIA.

FRANCISCO CARVAJAL, *Secretary.*

The GOVERNOR AND MILITARY COMMANDER
of the State of Yucatan, in Merida.

MERIDA, *June* 21, 1867.

A true copy:

E. ANCONA.

WASHINGTON, *July* 4, 1867.

A true copy:

IGNO MARISCAL, *Secretary.*

No. 4.—MEXICAN REPUBLIC.—GOVERNMENT OFFICE OF THE FREE AND SOVEREIGN STATE OF YUCATAN.

[Document No. 1.]

ON BOARD THE STEAMER VIRGINIA, OFF SISAL,
June 11, 1867.

MY WORTHY COMPATRIOT AND OLD FRIEND: Taking advantage of Lieutenant Colonel Hilario Mendez's visit to your city, I have the pleasure to address you, after so long a time, to remind you I have not forgotten you and esteem you as much as ever.

Mr. Mendez knows what happened to me in front of Vera Cruz, and he will tell you all about it. I send you the sworn declaration of the captain of the steamer Virginia, and other persons present, in reference to the outrage perpetrated upon my person, on the evening of the 7th of this present month. I also enclose a copy of the conversation that took place between me and the commander of the American war steamer Tacony, on board that vessel, so that you may have the interesting documents printed for circulation here, while I have them printed and circulated in Havana and the United States. I hope you will join me in my indignation against Commander Roe, for his insults and indignities to me under his cannons; for, after all, you are a good Mexican, and cannot remain indifferent to the insults and outrages that insolent foreigners heap upon us, taking advantage of our continued internal dissensions.

If I do not get back to Vera Cruz soon, in a war steamer or merchant vessel, I shall remain some time in Havana, and whether I am in that city or Vera Cruz, I shall be at your service.

Your grateful and affectionate friend and servant, who wishes you everlasting happiness,

A. L. DE SANTA ANNA.

General MARTIN PAREZA.

POSTSCRIPT.—I also enclose a copy of the address I thought proper to make to the Yucatans, when I was in front of Sisal, lest the copies I sent you at the time

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may not have reached you. If you are pleased with it, be so kind as to have it published and circulated. Adieu.

MERIDA, *June* 21, 1867.

An authentic copy:

E. ANCONA, *Secretary.*

WASHINGTON, *July* 4, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 5.—MEXICAN REPUBLIC.—OFFICE OF THE STATE GOVERNMENT OF THE FREE AND SOVEREIGN STATE OF YUCATAN.

[Document No. 2.]

Antonio Lopez de Santa Anna, general of division of the national armies well merited of his country, &c., &c., to his fellow-citizens.

YUCATECOS! Finding myself so near you, on my way to my native land, I anxiously greet you, with profound emotion, grieved to behold the immense contrast between our situations then and our conditions at the present time.

You will remember that in the years 1824 and 1825, I had the honor to hold the highest civil and military office in this peninsula, and to receive friendly demonstrations from you that will never be forgotten.

One year ago I went to the United States with the patriotic intentions of seeking aid for our brothers struggling so gallantly against an invading force that has succeeded in getting a foothold on our lovely land in a most inexplicable manner. This is not the time to explain my trials and unexpected difficulties in the efforts to succeed in my noble and patriotic enterprise. Now the French have disappeared from the scene there is a new perspective, and other troubles and conflicts are coming on the stage to try us Mexicans.

I will remember you when I get to Vera Cruz. I will address our nation from that point. In the mean time, I hope you will receive my friendly suggestions in the benevolence of former days. Put off the hostile attitude of brother against brother. We are all Mexicans, and it is better for us to agree. Let not evil passions overcome us. My mission among you, my brothers, is one of peace and friendship. At the last moment I come to mediate among the discordant members of the family. Fellow-countrymen, I pray you help my inspirations with your patriotic efforts; my aims are truly Mexican. Let us practice self-denial; let us make some small sacrifices, and I am sure we will succeed in restoring our cherished country to its former position of honor and glory, and give it new days of prosperity and progress.

A. L. DE SANTA ANNA.

ON BOARD THE STEAMER VIRGINIA,
In the waters of Sisal, June 21, 1867.

MERIDA, *June* 21, 1867.

A true copy:

E. ANCONA, *Secretary.*

WASHINGTON, *July* 4, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

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No. 6.—Mexican republic.—office of the government of the free and sovereign state of yucatan.

[Document No. 3.]

Sworn declaration of the captain of the steamer Virginia, of the United States of the north, and of persons present, and witnesses of the outrage perpetrated upon the person of his excellency General Antonio Lopez de Santa Anna, who was on board the Virginia, anchored in the roads of Vera Cruz, near the castle of San Juan de Ulloa, and alongside the Mexican war steamer Tabasco.

On Friday, the 7th instant, at half-past three in the afternoon, a boat from the English war steamer Jason suddenly came alongside the steamer Virginia. The Jason was moored near Sacrificios island; its commander was Mr. Murray Aynsly, and its crew consisted of thirteen seamen and two officers. The commander of the United States war steamer was Mr. F. A. Roe.

Commander Roe asked Captain Deaken, of the Virginia, for Santa Anna. The captain replied: "Here is General Santa Anna," who was seated on the quarter-deck. Mr. Roe asked if there was an interpreter present, when the purser of the vessel, Mr. Edward E. Austin, immediately came up. Commander Roe then said to General Santa Anna, through the interpreter, that he was invited on board the vessel anchored at Sacrificios.

The general was surprised at this invitation from an uncouth stranger whom he had never before seen, and asked him why he wanted him to go on board of his vessel. Roe rudely replied: "If you won't go voluntarily, we will take you by force." The general politely replied he did not see what right Mr. Roe had to use violence towards him, as he was not in his jurisdiction, and was preparing to land on his native shore, where his countrymen were expecting him.

A dispute ensued, and Roe was so angry the English commander, Aynsley, advised him to be more moderate in his language to the general.

General Santa Anna had offered the gentlemen seats when they came aboard, but as they continued to stand, he took a seat and asked an explanation of their singular conduct. Commander Roe replied, in a haughty tone, that he had no explanations to make; it was an order, and if not voluntarily obeyed, he would be taken by force. It was no time for compliments, and he wanted none. In fact, two sailors then advanced towards the general in a menacing manner. Some of his retinue interfered, and told the general what the men intended to do. With the energy and dignity peculiar to him, the general protested against these acts of violence and tyranny in his own country, in a Mexican port, in view of his flag, and in presence of Mexican authorities. As the Jason's men were still in a threatening attitude, the commander of the Nostite, one of the general's aids, came up and said in a low tone: "I think it most prudent, general, for you to take my arm and get into the boat, rather than let those men put their hands upon you." The general did not object, and got into the British boat, accompanied by his interpreter, Edward Gottlieb, and his body-servant, and was taken on board the war steamer Tacony, at Sacrificios.

Before leaving, General Santa Anna charged one of his aids to inform his secretary, Colonel Luis de Vidal y Ruiz, who was then in the city of Vera Cruz, of all that had happened. As soon as he heard of it, he went to see the commissary, Don Domingo Bureau, and told him of all that had happened, depicting in a vivid manner the great disrespect shown to the authorities in sight of the town, and in presence of Mexican officials. The commissary said he could do nothing, lest the two steamers might bombard the city. Mr. Vidal y Rivas then went to see Mr. Saulnier, the United States consul, to make a formal protest before him against the outrage. But the consul only replied that what had taken place had been done without his knowledge, and, moreover, he had just been assured that General Santa Anna would be released the next day.

The captain of the Virginia was ordered to weigh anchor and quit Vera Cruz

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the next day, after coming to Sacrificios to take the general on board. This was done at noon the next day, and at one we left Sacrificios, followed by the United States steamer Tacony. The whole country around Vera Cruz, as well as the city garrison, and the forts, were profoundly indignant at this event, considering it an insult to the dignity of the place, and a grave offence against a person so popular as Santa Anna is there, and just at a time when it was rumored that the authorities were preparing to receive him as a distinguished leader of independence, respected without distinction of parties, and which reception was prevented by seizing him, and carrying him away from the country. It was for that very purpose that General Santa Anna was waiting on board the Virginia till public acts should proclaim the republic, and thus the good old government of the nation be restored, and peace established without shedding a drop of blood. The authorities had frequently been on board to visit him, and satisfaction and confidence were depicted in the countenances of everybody.

Each one of the persons who sign this is responsible with his name for what he witnessed.

Signed on board the steamer Virginia, en route for Sisal, the 8th of June, 1867.

JOHN DEAKEN,
EDWARD E. AUSTIN, *Purser.*
GEORGE SLOAN, *First Mate.*
THOMAS M. DEAKEN, *Second Mate.*
G. G. WILSON, *First Engineer.*
L. G. VIDAL Y RIVAS, *His Excellency's Sec'y.*
J. B. DE NOSTITZ, *Commander of E. M.*
L. LUTTWITZ, *Captain.*
EDWARD SATTIEL, *Interpreter.*

MERIDA, *June* 21, 1867.

A true copy:

E. ANCONA.

WASHINGTON, *July* 4, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 7.—MEXICAN REPUBLIC.—GOVERNMENT OFFICE OF THE FREE AND SOVEREIGN STATE OF YUCATAN.

[Document No. 4.]

Dialogue between Commander F. A. Roe, of the steamer of war Tacony, and General Santa Anna, on board said steamer, through the interpreter, Edward Gottlieb.

COMMANDER ROE. General, here you have my room, where you will be comfortable, and can ask for what you want.

GENERAL SANTA ANNA. Thank you, commander; but I wish to know, first, why you took me forcibly from the Virginia, and prevented me from going ashore, as I intended. Without being at war, why have you taken me prisoner?

COMMANDER. No, general, you are not a prisoner. I wished to spare the shedding of blood in Vera Cruz, when enough has been shed in the country already.

GENERAL. But by what authority and right do you thus proceed against my person, when I am a Mexican returning to my country after a long absence, with the intention of serving it, as I have always done, and now as a mediator for the restoration of peace?

COMMANDER. It has been said in the city, that the general was sent by my government—referring to a conversation of the general with the American con-

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sul, in presence of the English consul—and it is my duty to prove the contrary, having an understanding with General Benavides.

GENERAL. It is not true that I said I was sent, for the government at Washington could not employ me, nor would I obey the commands of a government not my own. I heard that the American consul prevaricated for the purpose of preventing me from landing, and I thought proper to satisfy him, and dispose him to a neutrality he ought to observe; for that purpose I said to him, substantially, that my mission was one of entire peace, and that his President was not ignorant of my journey, nor of my intentions.

COMMANDER. Well, but your presence prevented the surrender of the city to Gen. Benavides, who was besieging it, after Commissioner Bureau had agreed to it.

GENERAL. And what is it to you whether the city is held by this or that Mexican, when you have no right to interfere in Mexican affairs? I doubt if your government will approve of your conduct; and, besides, what is the reason of your insult to my person, this evening? As long as I am compelled to remain in this ship I will consider myself a prisoner.

COMMANDER. I have acted as I thought proper, (said the commander, angrily;) I have no more explanations to make, and he got up.

GENERAL. Will you use force against me? I have no rifled cannons, and consequently you have me completely in your power.

COMMANDER. Good-night, general; you have my room to rest in, and you can call for what you want; and taking off his cap, he bowed politely.

General Santa Anna spent most of the night in a chair, and took nothing that was offered him. At ten o'clock next day an officer told him that he could now get on board the Virginia, that had come to Sacrificios for him; but he could not go to Vera Cruz, however much he might wish it; he might go to Sisal, to Havana, or to the United States, and of course the vessel could go to any of those places.

The general again angrily protested against the violence used toward him, and declared he would inform the government at Washington of the outrage to him, and would demand satisfaction, and publish an account of the disgraceful acts; and he then went on board the Virginia, that had brought him to this city.

On board the steamer Virginia, this 8th day June, 1867.

The interpreter of his excellency General Santa Anna,

EDWARD GOTTLIEB.

MERIDA, *June* 21, 1867.

A true copy:

E. ANCONA, *Secretary.*

WASHINGTON, *July* 4, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 8.—MEXICAN REPUBLIC.—GOVERNMENT OFFICE OF THE FREE AND SOVEREIGN STATE OF YUCATAN.

[Document No. 5.]

ON BOARD THE STEAMER VIRGINIA,
In front of Sisal, June 11, 1867.

VERY DEAR SIR AND ESTEEMED FRIEND: The passengers that embarked in this vessel have expressed to us the general dissatisfaction of the inhabitants of that place; and I myself, on quitting the wharf, was grieved to see tears shed by old soldiers, annoyed at the flagrant disrespect, feloniously executed. The garrison, as well as the inhabitants of that city, must be in despair from anxious expectation and uncertainty, easy to understand when we have witnessed their spontaneous sensations of enthusiasm and sympathy.

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On the other hand, while I consider your decided intention, and that of the other friends we have in your city, and on reflecting that the affairs of Mexico can have no other favorable solution, and no other guarantee than that which we propose to give by means of our leader, with the influence of his name and his gift of command, I am persuaded to write to you, to ask you to tell us frankly, without the loss of a moment, if the situation can be commanded till our return; and if that can be done, whether we may expect better success in the realization of our undertaking. I think it indispensable, very necessary, to remind them that you do not permit them to be delivered up to their enemies, bearing in mind that they do not know how to pardon, nor to keep their promises, and that you will surely be sacrificed as soon as you are disarmed. The safest way, in fact the only way, is that pointed out to you by the general. His intention is to return to your port without delay, in a war steamer or merchant steamer. Let this notice serve as a guide to you in the management of affairs.

Why were we not assisted by you in the night of the 8th and 9th, as we expected to have been? As Mr. Bureau recommended us to do everything through you, we did so; but our good desires were also frustrated that time. I hope you will write to me by the bearer of this, who will give you further particulars of our affairs. We shall have reason to rejoice that we have done much more than was expected of us by any one. And it is because we see the dark prospects in the future, and are trying to anticipate and prevent coming ills.

It is with pleasure that I sign myself your devoted friend and servant, who wishes you all happiness,

L. G. DE VIDAL Y RIVAS.

Give my respects to all my friends, not forgetting General Perez Gomez, General Herrau, &c., &c.

The general, who cannot write, from a slight indisposition caused by a bilious attack, sends his regards to all, and to you in particular. Adieu.

His Excellency General ANTONIO TOBOADA.

MERIDA, *June* 21, 1867,

A true cpy:

E. ANCONA, *Secretary.*

WASHINGTON, *July* 4, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 9.

[Document No. 6.]

MEXICAN REPUBLIC, GOVERNMENT OFFICE
OF THE FREE AND SOVEREIGN STATE OF YUCATAN,
On board the steamer Virginia, in front of Sisal, June 11, 1867.

VERY DEAR AND MUCH ESTEEMED SIR: The favorable reception you were pleased to accord us in the execution of our labors, and the deference with which you thought proper to grant me your confidence, induce me to write to you, if only to express my gratitude and to beg you to favor me with an answer, keeping us informed of the tenor of events and letting us know if we can yet do anything in favor of our unfortunate country.

This letter will go by the Spanish mail steamer that touches at this port, and I must say to you that our intention is to proceed to Havana to see what kind of aid, direct or moral, the captain general will furnish us. General Manzano is an old friend of mine, and ought to comprehend the urgency of the case. I hope you will avail yourself of that medium to communicate with me,

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to avoid miscarriage of letters. Excuse the card I enclose to you; it is one I made use of in the United States; I send it because I have no other at hand.

The chief intent of this is to ask you to deliver the enclosed and receive the answer; to request you to explore the ground and to tell us frankly what you think of affairs, and how the situation appears to you; to investigate the minds and even the dispositions of those who are capable of aiding us. If they are ready, if they can do any good, we will soon return to the front of your city; but if the case is contrary, if appearances are against us, I beg you to speak without circumlocution or subterfuge. All must have known that our arrival at your city was not only opportune and efficacious, but necessary and even indispensable. Would to God there was some other person capable of saving the situation! I would willingly aid him by every means in my power, but, unfortunately, I do not discover that person.

I may obtain permission for the general to remain in Cuba for a month; if not, he will be obliged to go back to Saint Thomas. At all events, you must understand there that we are ready to save Vera Cruz, and raise the siege by gaining Benavides over to our party, and thus prevent much bloodshed in the city, and then go to the aid of the brave men who are struggling for their lives in the capital. Alas for Vera Cruz! Woe to Mexico, if unfortunately we are not understood!

Our present fears are, that a vessel we are expecting from the United States to your city, not finding us there, may fall into the hands of some United States agents, and suffer all the indignities that nation is heaping upon us. We are taking all the precautions here, and are cruising about, but as we have had two stormy nights, we may have passed each other without discovery. In such an event, if the vessel has arrived, and the troops wish to land, put the Irish battalion in the castle, and the riflemen in the city, till our return, when we can march them into the country to shun the endemic and pernicious maladies peculiar to our coast. In that expedition we would not only lose the cost, which is over $200,000, but the opportunity of aid, without reckoning the difficulties that we have had to overcome in organizing it. I must tell you, for your information, that I sent a trusty person ashore the day we left with letters for you, but he did not find you in your house. Two other persons went to consult their friends and arrange for our return. We complied with our offer.

On the night of the eighth and ninth we were more than two hours behind the castle, from midnight till after two, with the lights and signals agreed on, upon the Galleguilla shoals. The noise made by blowing off steam and our movements must have been heard at the castle; the sea was calm and the weather cloudy. Why did you not come to the place agreed on? We did everything we could; after two o'clock we put to sea.

Do me the favor not to let this go out of your hands, though I have not put your name to it for fear of risking the loss of your situation. I have the honor to subscribe myself your devoted and obedient servant, who wishes you much happiness,

L. G. DE VIDAL Y RIVAS.

The above communication bore the following address: "Mr. Charles Raman, her Catholic Majesty's consul in Vera Cruz."

MERIDA, *June* 21, 1867.

A true copy:

E. ANCONA, *Secretary.*

WASHINGTON, *July* 4, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

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No. 10.

[Document No. 7.]

MEXICAN REPUBLIC, GOVERNOR'S OFFICE
OF THE FREE AND SOVEREIGN STATE OF YUCATAN,
Sisal, June 12, 1867.

MY ESTEEMED COUNTRYMAN AND FRIEND: I wrote to you yesterday from the Virginia by Lieutenant Colonel Mendez, and I presume my letter is now in your hands with the documents it contained. I was awaiting your answer, when Colonel Medina, the military commander of this port, presented himself to me on board, and informed me that you invited me to land. I immediately began to get ready to accept your invitation, and commenced by shaving myself. The captain of the vessel informed me I could not land, as his orders from the commander of the American war steamer were, that I might land on neutral ground, but could have no pretext to set foot on Mexican territory. This caused an altercation between Colonel Medina and the captain of the Virginia, in which threats passed, &c. Finally the captain yielded, and I was allowed to disembark, not without protests, however.

Now I am at your disposal; but I hope I shall soon see you, as this commander has promised me I could. I wish my good intentions may give a happy result; and I do not think Mr. Salazar Ilaregui will be so timid as to reject my generous mediation for the complete re-establishment of peace in this State; but if he persists in an obstinate resistance, an old veteran places himself under your orders, to be sent wherever you think he can be of the greatest service to the nation. In the mean time, I hope to have the pleasure of seeing you and embracing you; till then, I wish you excellent health, and sign myself your affectionate, and faithful friend and servant,

ANTONIO LOPEZ DE SANTA ANNA.

General MATIAS PERAZA, *Merida.*

MERIDA, *June* 21, 1867.

A true copy:

E. ANCONA, *Secretary.*

WASHINGTON, *July* 4, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

Mr. Romero to Mr. Seward.

[Memorandum.]

WASHINGTON, *July* 8, 1867.

Mr. Romero said that he received on the 4th instant an official communication from General Peraza, governor of Yucatan, dated at Merida on the 21st ultimo, stating he had sent General Santa Anna to Campeche, to be kept there subject to the disposition of the President of the republic. A copy of this communication was sent by Mr. Romero to the department.

General Peraza further states that General Santa Anna landed at Sisal on the 11th ultimo at his (General Peraza's) request, and was not taken out of the Virginia by force, as has been reported. Among the documents sent by General Peraza to Mr. Romero and transmitted by him to the department is a letter from General Santa Anna, dated Sisal, June 12, 1867, saying that he landed at General Peraza's invitation.

It does not appear from those papers how far from the coast the Virginia was lying when she was in the port of Sisal.

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Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, July 13, 1867.

SIR: I have the honor to communicate a copy of a memorandum of this department of yesterday on the subject of proceedings consequent upon the recent visit of Señor Don Antonio Lopez de Santa Anna to Mexico.

I avail myself of the occasion, sir, to offer to you a renewed assurance of my very high consideration.

WILLIAM H. SEWARD.

Señor Don MATIAS ROMERO, *&c., &c., &c.*,
Washington, D. C.

[For enclosure see memorandum at end of correspondence.]

Mr. Romero to Mr. Seward.

[Translation.]

MEXICAN LEGATION IN THE UNITED STATES OF AMERICA,
Washington, July 13, 1867.

Mr. SECRETARY: With your note of this date I have had the honor to receive a copy of a memorandum of yesterday's date from your department which you were pleased to enclose to me with reference to the matter of the proceedings arising from the visit which Don Antonio Lopez de Santa Anna recently made to the ports of Vera Cruz and Sisal.

I this day transmit a copy of the said memorandum to the government of the Mexican republic, and I do not for a moment doubt that my government will be as much gratified as myself with the determination which, after a mature examination of the case and its incidents, you have adopted in this affair, inasmuch as the said conclusion, in my judgment, is founded on the principles of equity, and is in conformity with the prescriptions of international law.

The sentiments of sympathy towards the republic of Mexico which you are pleased to express at the conclusion of your memorandum, and the course which you therein indicate the government of the United States intends to pursue in its relations with Mexico, will likewise be duly appreciated and reciprocated in the new era of peace and prosperity which the late political events have inaugurated for my country.

It is most satisfactory to me to avail myself of this opportunity to renew to you, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

[NOTE.—A copy of this memorandum will be found at the end of the correspondence on the subject of which it treats.]

Mr. Saulnier to Mr. Seward.

No. 43.] CONSULATE OF THE UNITED STATES OF AMERICA,
Vera Cruz, June 8, 1867.

SIR: I have the honor to acknowledge the receipt of one government pouch from Washington—per steamship Virginia via New York, arrived here on the 3d instant—with despatches for Consul Otterbourg, at the city of Mexico, and

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Consul General Chase, at Tampico; those for the city of Mexico have been sent up per extraordinary. On the steamship Virginia there came as passengers General Santa Anna and staff, said staff consisting of his father-in-law, Colonel Vidal, two Prussian officers, and an American interpreter. On the evening of the 3d instant Santa Anna passed from the ship to the castle of San Juan de Ulua. On the 4th the norther blowing, and there being no communication had with the harbor or castle, he, Santa Anna, passed the day there.

On the morning of the 5th Santa Ana was taken from the castle of San Juan de Ulua and placed again on board the Virginia, after the force that was in the castle had been changed.

On the 7th the commanders of the English frigate Jason and the United States steamer Tacony went alongside and on board the Virginia and took Santa Anna out of the Virginia and placed him on board the United States steamer Tacony, then lying off Sacrificios, with orders to the captain of the Virginia to pass by the island of Sacrificios with his ship and receive Santa Anna on board again on his departure from this port.

The object of this action on the part of the commanders, I believe, was to avoid a conflict between the armed force in this city, assurances having been given them that it was the intention of a part of the garrison to make an attempt to have Santa Anna landed here last night.

The situation as regards the military forces inside and outside of this city is in the same belligerent position. No later news from the city of Mexico than that brought down by my courier, viz., up to the 26th ultimo.

I have the honor to be, with great respect, your obedient servant,

E. H. SAULNIER,
United States Consul.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.,*
Washington, D. C.

[Translation.]

TACUBAYA, *May* 20, 1867.

DEAR FRIEND: I am second in command on General Porferio Diaz's staff, and am appointed captain of the post at Vera Cruz. I offer both places to you.

You have already heard of the fall of Queretaro and the capture of Maximilian, who is now being tried by order of the general government; nobody knows what will be his fate; a court-martial will decide that.

We are now besieging Mexico, and by the time you get this we will probably be in the city; it is a labor of but few days, &c.

JOSÉ MARIA PEREZ.

Mr. ELISHA H. SAULNIER, *Vera Cruz.*

MILICUA, 30.

The court-martial has sentenced Maximilian, Miramon, and Mejia to be shot. They will probably be executed to-morrow or next day.

Mr. Saulnier to Mr. Seward.

No. 44.] CONSULATE OF THE UNITED STATES OF AMERICA,
Vera Cruz, June 12, 1867.

SIR: I have the honor to inform you that General Santa Anna left here on the 8th instant, on the steamship Virginia, for Sisal and Havana.

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The history of his reception here is as follows: He arrived here on the 3d instant, on the steamship Virginia from New York. The same day he landed in the castle of San Juan d'Uloa. The 4th, the wind being strong from the north prevented communication with the harbor or castle. On the 5th, in the morning, he was sent back on board the Virginia.

On the 6th I received an invitation from Santa Anna to visit him on board the Virginia. He entertained me for one hour, representing that, at the solicitation of President Johnson and yourself he came here with the agreement that he would be supported in men and money, and recognized in preference to President Juarez. I reported this interview to Commander F. A. Roe, United States steamer Tacony.

On the 7th instant, it being reported to me through a reliable person that a serious effort would be made to have Santa Anna landed that night, it was resolved by the commanders of the United States steamer Tacony and her Britannic Majesty's ship Jason that Santa Anna should be forthwith invited to pass the night on board the United States steamer Tacony. This resolution was immediately acted upon, and Santa Anna did pass the night of the 7th instant on board the United States steamer Tacony.

On the 8th instant the Virginia left the harbor, passed by Sacrificios and received Santa Anna on board said ship, and proceeded immediately after to sea.

Enclosed, please find the proceedings of a meeting of the officials of this city in reference to the landing here of Santa Anna.

The United States steamer Tacony proceeded to sea immediately after the Virginia left, bound for Pensacola.

I am without any vessel of war at present.

I have the honor to be, with great respect, your obedient servant,

E. H. SAULNIER,
United States Consul.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Mr. Seward to Mr. Saulnier.

DEPARTMENT OF STATE,
Washington, July 1, 1867.

SIR: Your despatches of the 8th and 12th of June, Nos. 43 and 44, have been received, with the history of the arrival of General Santa Anna at Vera Cruz in the steamer Virginia, his demonstrations made there, and his departure from that port, together with your official proceedings connected with those transactions.

You rightly apprehended that the proceedings of General Santa Anna had no authority from the government of the United States. This government has held no communication with him whatever during his residence in our country. His departure was unknown and unthought of when he appeared in the waters of Mexico.

I refrain from further remarks upon the subject, while awaiting the further development of General Santa Anna's designs.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

E. H. SAULNIER, Esq.,
United States Consul, Vera Cruz.

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Commander Roe to Secretary Welles.

No. 96.] FLAG-SHIP DE SOTO,
Pensacola Bay, June 13, 1867.

SIR: In my letter of yesterday's date I informed the department that I had that day sent down the Yucca with provisions for the Tacony. It was therefore with regret I saw the Tacony coming into this harbor this morning, having but two days' more bread.

I enclose you his report of affairs at Vera Cruz, and have approved of his course towards Santa Anna. He will take in some provisions and return to Vera Cruz as soon as possible, though he thinks that ere this Vera Cruz has surrendered to the liberal forces.

I gave the Yucca instructions to proceed to Laguna to ascertain what might be the difficulty reported to the department by the Secretary of State.

I leave this evening for Hampton Roads.

Very respectfully, your obedient servant,

JAS. S. PALMER,
Rear-Admiral, Commanding North Atlantic Squadron.

Hon. GIDEON WELLES,
Secretary of the Navy, Washington, D. C.

A.

CONSULATE OF THE UNITED STATES OF AMERICA,
Vera Cruz, June 7, 1867.

DEAR SIR: Yesterday, in company with the English consul, at the request of General Santa Anna, we visited him or board the Virginia. He entertained us with a long discourse as to his plans, viz., that after interviews with President Johnson and Secretary Seward, at their solicitation, he has come here; that they have offered him men and money to sustain him; that Maximilian has offered to deliver the situation of the country to Santa Anna, &c; all of which I believe to be false. I cannot believe our government are disposed to disown Juarez, and take up a man like Santa Anna, who has no party in any part of the country; and neither can I believe our government will give countenance to filibusterism of this nature. We have just had an interview with the imperial commissary here as to his intentions. He declares that Santa Anna shall not land here, and that he is master of the situation here now. Of this I have some doubts. I fear as long as Santa Anna is here we are in danger of a revolution in his favor. I therefore respectfully suggest to you whether it be not prudent to avoid this event; that two or more marines from your ship be placed on board, to the end that this new element of discord may not be permitted to be thrown among us here, or left here to produce more trouble, but that the said ship may take him away with her.

The ship will sail from here to-morrow morning at 10 o'clock, but we fear trouble this night.

With much respect, your obedient servant,

E. H. SAULNIER
United States Consul.

Commander F. A. ROE,
United States Steamship Tacony off Sacrificios.

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[Confidential—translated.]

B.

CASA MATA, *June* 8, 1867.

MY DEAR COMMANDER: Last night I received the news from Captain Aynsley that you had removed Santa Anna on board the Tacony, and that he will be re-embarked on board the Virginia at her moment of departure for New Orleans; but I have reflected since that this bad man, who has much cunning, may be able to obtain means to return to Vera Cruz, when it will be possible for no one to prevent the evils which he is capable of committing against humanity. On this account I believe that the most discreet thing would be to retain him at Sacrificios until present affairs are finished, and until I shall have entered Vera Cruz.

Santa Anna has come as a fugitive from justice. You know that he has fled from debts, and that he is at liberty under a bond of thirty thousand dollars, which he laughs at. This conduct is not strange in Santa Anna. He is a man who does not know modesty, and he is a trickster. Well, then, I believe you would do right to secure his person, since he is a fugitive, and hold him pending the action of the tribunals of the United States. You will permit my friendship to give you this indication and advice. Besides, it is in the interests of humanity that we secure this fatal man, who has caused so many evils in the world.

At all events yourself and Captain Aynsley have saved Vera Cruz from a conflict. Your manly conduct has drawn upon you universal gratitude.

I salute you, my dear commander, and I am always your friend and servant,

R. BENAVIDES.

UNITED STATES STEAMSHIP TACONY, (3d rate,)
Sacrificios, Mexico, June 13, 1867.

SIR: I respectfully continue my report on the events transpiring at this place. On the 20th of May the United States and English consuls came to Sacrificios, and reported to the English captain and myself that the imperial commissary at Vera Cruz had submitted certain terms for the surrender of Vera Cruz to General Benavides, commanding the liberal forces; and that he (the commissary) had requested the two consuls to proceed to the liberal camp to propose them. He moreover requested that the British captain and myself should accompany them. On that day we accordingly visited General Benavides at his headquarters, and the propositions of the imperial commissary were in substance accepted. This was after the reception of the news of the fall of Queretaro and capture of Maximilian. A truce of some three days was agreed upon, and hostilities suspended. At the end of this period, however, the imperial commissary failed to meet General Benavides, and hostilites were once more resumed, the imperial commissary then alleging that he was not satisfied that the news was exact, and that he needed further confirmation of the facts.

Affairs remained then in this position until the 1st of June, when, after repeated *solicitations* on the part of the commissary to the United States and British consuls for further interviews, these gentlemen, being urgently pressed by the commissary, again visited him. This time he declared that he would accept the propositions of General Benavides, which the consuls had brought back from him in writing; and they were requested to visit General Benavides to notify him of the acceptance of his proffered terms, and of the desire of the imperialist to surrender Vera Cruz, its castle and fortifications. At this time the consuls detected an apprehension lurking in the mind of the imperialist that he had deferred his surrender too long, that the foreign mercenaries and troops

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had become discontented, and that fears of a revolution, and consequently that pillage, riot, arson, and robbery and murder, would ensue. Nevertheless he assured the consuls that he yet retained sufficient authority to render a peaceful surrender possible.

Accordingly, these consuls left the English ship-of-war Jason on the morning of the 2d of June with full instructions to arrange for surrender. These gentlemen landed in a boat from the Jason, doubtful now if the generous terms offered by General Benavides would be ratified, inasmuch as it was the *third* time that their good offices had been solicited by the imperialist, and at the last moment evaded by him, after having accomplished his wishes. The fears, well grounded, also, of a general insurrection in the city, and of scenes of horror resulting from it, impelled us all to accede once more and render such good offices as both parties, and the interests of humanity and of our citizens, might ardently demand.

The consuls returned to the Jason about 2 o'clock p. m (June 2d) with a complete ratification by General Benavides of the original terms proposed by him, and now solicited by the commissary. The two consuls proceeded at once to Vera Cruz, there to report their success to the commissary and await developments. In the mean time General Benavides ceased firing from his batteries, though at sunset the city forts opened upon the besiegers with more than usual cativity.

The terms brought by the two consuls from the liberal camp were accepted by the commissary, who informed the consuls that he would require a little time to win over his officers to his wishes. In the mean time the steamship Virginia arrived, bringing Santa Anna, who forthwith proceeded to the castle of San Juan, then commanded by one of Santa Anna's friends. The following day this commander was removed, and Santa Anna was placed again on board the Virginia, and the commissary notified the two consuls that he would be sent back out of the country in the Virginia. It was said that Santa Anna declared that he brought letters from President Johnson and the United States government authorizing him to assume the charge of affairs in Mexico. He stated also that a squadron of ships was ordered to sustain him, and troops were also on the way to Vera Cruz. This statement of course was not believed, and it was rejected by the consul of the United States. At this juncture my provisions were getting low, but I was most earnestly requested to remain, by the consuls, by the English naval captain, by General Benavides, and also by the commissary. The latter urged that in case of opposition by the foreign troops in Vera Cruz to his effecting a surrender, he would beg the English and United States ships-of-war to move up to support the mutual movement of both the imperialist and liberal commanders.

As above stated, on the 3d June, the steamship Virginia from New York arrived, bringing General Santa Anna and four or five persons, whom he called his staff. The ship anchored under the castle, and that same evening he landed at the castle, commanded by an adherent and friend of his. On the 4th the commander and a portion of the garrison were removed. On the 5th Santa Anna himself was removed and placed on board the Virginia. During the 6th conspiracies and plottings were afoot. Persons of Santa Anna's staff visited the shore, and great popular excitement ensued. The imperial commissary feigned sickness, but paid a visit, accompanied by his officers, to Santa Anna. On the 7th the commander of the French corvette Phlegeton came alongside, and manifested some interest in what was going on, and invited me to accompany him in his sail-boat to Vera Cruz. I did so, as such courtesies had been mutually interchanged between the English, French, and myself. On my arrival in Vera Cruz I found the United States consul at the British consulate with several persons, including Captain Aynsley, commanding her Britannic Majesty's ship Jason, senior naval commander here. I found there existed very great excitement

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throughout the city. Certain military leaders were forcing the presence of Santa Anna upon the people, and the people were angrily opposed to them. While affairs were being discussed in the British consulate a letter was received and the announcement made to us that a revolution was on the eve of breaking out in favor and against Santa Anna, who represented himself as the emissary of the United States government, appointed to supersede Juarez and all others, and take charge as a chief appointed by the United States in their behalf. I was at this time presented with the accompanying official letter from the United States consul, a copy of which is enclosed, marked A. As affairs were imminent and pressing, and the day drawing to a close, and a boat from the Tacony could not be received under some hours, and as I had no means to send for one, I asked Captain Aynsley to grant me the use of his cutter, which was cheerfully acceded to. Accordingly, in company with Captain Aynsley, I proceeded alongside of the Virginia, with the United States and English colors both flying at the same flag-staff of the boat, and the boat itself placed at my disposition. I accordingly went alongside, removed Mr. Santa Anna from the Virginia, with his interpreter and body-servant, to the boat, and thence on board the Tacony for the night. It is proper here to say that after I arrived on board, and delivering to Santa Anna my cabin, the use of my servants, and my mess, he denied that he had publicly declared that he came in the name of President Johnson and the United States, and only was here as an independent citizen. I informed him that I had the official report of the United States consul, and vouched for by the British consul, that the name of my government had been publicly used and proclaimed ashore as his authority to supersede President Juarez, Maximilian, and everybody else in Mexico; that the United States consul had disavowed any such authority, and that I also could not recognize it, and therefore I had invited him to pass a quiet night on board the Tacony.

On the morning of the 8th the Virginia came down to Sacrificios, bringing the United States consul, and anchored under my port bow, when the consul reported to me that the ship was ready to proceed to sea, and ready to receive Santa Anna on board. I accordingly put him on board the Virginia, and she sailed for New York via Sisal and Havana about 11 o'clock a. m. At 2 p. m. I got under way, following her to sea, and proceeded to Pensacola, short of provisions.

I respectfully enclose a copy of translation of a letter from General Benavides, (marked B,) received on the morning of the 8th, in relation to this filibustering expedition of Santa Anna. It tells the whole story. Revolution was rife, and needed only the flame of this old fire-brand to produce wicked and terrible scenes in Vera Cruz. Moreover, the unblushing use made of the name of the United States government, and of President Johnson, and of their forces, arms, ships, troops, and authority, required me to keep this man quiet, and I therefore sent him out of the country whence he came, to go whither he chose.

The attitude then of Santa Anna was this: On board of an American ship, under the flag of the United States, declaring and fomenting war against a government with whom the United States are in friendly relations, under an assumed authority from the United States, and while he was under the protection and shield of their flag, he prevented the act of the surrender of Vera Cruz after the terms of that surrender had been fully agreed to and accepted by both parties, and this under the declaration that he was under the authority of the United States.

I will add that it was the intention of several of the imperial chiefs to take Santa Anna on shore (the night of the 7th;) that a pronunciamiento had been drawn up, by which the city, the forts, and the castle were to be surrendered to him; that the imperial commissary was to go away temporarily, and then return, fully restored to his remunerative office; that this Santa Anna was to create and set up an empire of his own in Mexico. The gaudy and decorated

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uniform of this dictator was exhibited in my cabin through the awkwardness of my steward, who was attending him while dressing. The morning of the 8th was to be ushered in with regal honors, and the initiation to power of this man Santa Anna. But in doing so murder and bloodshed, and revolution, in the sacred name of my government would also have been initiated. This profanation has been saved; and Santa Anna is safely, and I trust quietly and happily, at sea. I escorted the Virginia twenty miles to sea, then shaped my course for Pensacola, where I now respectfully report my arrival.

I am, sir, very respectfully, your obedient servant,

F. A. ROE,
Commander, commanding.

Commodore J. A. WINSLOW,
Commanding Gulf Squadron, Pensacola, Florida.

Mr. Savage to Mr. Seward.

No. 320.] CONSULATE GENERAL OF THE UNITED STATES,
Havana, June 17, 1867.

SIR: The despatches from our consul at Vera Cruz, which are herewith transmitted, will no doubt furnish you the particulars relating to the visit of General Santa Anna, ex-President of Mexico, to that port, in the American steamer Virginia, and his subsequent departure in the same ship. On her arrival at Sisal, in Yucatan, at about 3.30 p. m. of the 11th instant, General Santa Anna sent some papers on shore. It is understood that those papers were of an insurrectionary character. Early the next morning the Virginia was surrounded by three Mexican armed schooners, with their guns pointed at her, and boarded by an officer and a file of soldiers, who forcibly took Santa Anna and his secretary, L. Vidal y Rivas, on shore, notwithstanding that both the master of the ship and Santa Anna protested against the act. The master, as he alleges, made known to the officer that General Santa Anna had been placed on board of his ship by Commander Roe, of the United States steamer Tacony, to be conveyed to Havana, or any other port out of Mexico. His allegations were disregarded by the Mexican officials, who threatened to fire into the steamer if she attempted to leave the port with those persons on board. Other parties belonging to the general's suite, who had landed, were ordered to return to the Virginia.

The facts connected with the arrest of Santa Anna and his secretary appear in a protest made and sworn to before me by Captain Deaken, Mr. Austin, the purser, and Mr. Sloan, the first officer of the Virginia, as there was no consul of the United States or of any friendly nation at Sisal. A copy of the protest Captain Deaken takes with him to New York.

I have the honor to be, sir, &c., &c.,

THOS. SAVAGE,
Vice-Consul General.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Mr. Savage to Mr. Seward.

No. 323.] CONSULATE GENERAL OF THE UNITED STATES OF AMERICA,
Havana, June 22, 1867.

SIR: In my despatch No. 320 I reported what occurred at Sisal respecting the forcible abduction of General Santa Anna from the American mail steamer

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Virginia. The general's son, Don José Lopez de Santa Anna, paid me a visit on the day before yesterday, and handed me the accompanying communication, with the request that I should lay it before the government of the United States. He manifested a great deal of anxiety and apprehension that his father might be put to death by his captors, or subjected to very harsh treatment. You will notice that the paper bears no date. I have kept a copy of it. Mr. Santa Anna has had the document published in the newspapers of this city.

I have the honor to be, sir, with great respect, your obedient servant,

THOS. SAVAGE,
Vice-Consul General.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D C.

[Translation.]

To the Consul General of the United States of America at Havana:

The undersigned, a son of General Don Antonio Lopez de Santa Anna, has the honor of addressing himself to you to protest energetically against the outrages that have been recently committed in the harbor of Vera Cruz and in the port of Sisal against the person of his father.

It is known from documents that have been published in this city, from private correspondence, and the verbal statements of passengers, that General Santa Anna arrived at the port of Vera Cruz on the 3d instant, on board the steamer Virginia, a vessel under the North American flag; that while the decision of the authorities of that place was pending as to whether he should be permitted or not to disembark, he was carried by force from the Virginia as a prisoner to the war steamer of the United States, Tacony, whose commander not only made, personally, the arrest of General Santa Anna, but compelled him to re-embark upon the Virginia, to be conveyed to Havana or the United States. It is also known that, upon the Virginia touching at Sisal to take in freight, a flotilla of gunboats, said to be in the service of Mr. Juarez, came alongside of the said steamer, and their commander, Gomez, under the threat of firing in case of any resistance, sent fifteen infantrymen, who, with their arms, boarded the steamer, declared General Santa Anna their prisoner, and took him away with them.

It is not the purpose of the undersigned to qualify the act of the capture of his father, executed in sight of his native country by the commanding officer of the Tacony. It has been asserted that said officer sent to his government the explanation of his conduct; and however unjustifiable the same may appear, it will be well to know the foundation upon which he has based it, in order to form a proper judgment. But I cannot ignore the outrage committed off Sisal against the person of General Santa Anna. This gentleman not only, because travelling as he was upon a North American steamer, had the right to rely upon the protection of the flag of the United States, but also that, being obliged by force to transfer himself to the Virginia, he had to be considered as a prisoner of that republic until his freedom should be returned to him, and with that character to be conveyed safe and sound to a place in which there was right to ask of her explanations of her conduct, or, rather, to satisfy him for the abuse committed against him. But to allow General Santa Anna to be taken out of a vessel of the United States by his natural enemies, who will perhaps hasten to sacrifice him to their political hatred; to allow the flag of the stars to be insulted by a horde of pirates, are facts so incredible that, if a prompt and efficient reparation of such outrage is not obtained, the whole world will suspect that they have been permitted or premeditated from a policy hostile to his father.

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The undersigned, absent from his country for upwards of eleven years, without having in the least participated in the convulsions that during that time have afflicted her, without affection or hatred to the parties that are disputing power there, does not apply to you, Mr. Consul, influenced by any political interest, but by the noble and legitimate feelings of his filial love of humanity and of justice. I trust, therefore, that you will be pleased to lay this protest before the government of the United States, and entreat that such measures as may be necessary be adopted for the security and rescue of the person of General Santa Anna.

JOSÉ L. DE SANTA ANNA.

HAVANA, *June*, 1867.

Mr. Naphegyi to Mr. Seward.

EBBITT HOUSE HOTEL,
Washington City, July 6, 1867.

SIR: The undersigned, attorney in fact and confidential agent in the United States of Don Antonio Lopez de Santa Anna, begs permission most respectfully to call the attention of the Hon. William H. Seward, Secretary of State of the United States, to certain recent occurrences in the gulf of Mexico, by which the said Señor Santa Anna has been prevented from complying with the expressed wishes of his fellow-citizens with regard to the political affairs of their common country, and by which, almost immediately thereafter, he was deprived of his personal liberty, and his life itself placed in jeopardy. These grave consequences have resulted from an officious interference in the affairs of Señor Santa Anna and of Mexico, on the part of United States agents and officers in those waters, and at Vera Cruz; for such interference was officious inasmuch as it could not have been directed by the government at Washington; finds no justification in law or comity of nations; nor, as the undersigned is fully persuaded, can it possibly meet the sanction of that government or of the American people.

The affair referred to is one of public notoriety, but the undersigned begs leave to transmit herewith certain documents, a perusal of which will afford a history of the occurrences alluded to:

1. Statement and affidavit of the passengers of the Virginia, with regard to the entire transaction.

2. Protest of Captain John Deaken, commander of the Virginia, duly extended before the United States consul general at Havana, with regard to the forcible entry of his ship, and the taking therefrom of the persons of Señor Santa Anna, and of his secretary, Señor Vidal y Rivas, by an armed party of Mexicans, commanded by a Mexican officer and aided by armed vessels displaying the Mexican flag.

3. Affidavit of Captain Deaken, establishing the fact, that at the time of the invasion of his ship she was at anchor more than a marine league from Sisal, being thus upon the high seas, and the act complained of thus coming within the definition of piracy.

4. The proclamation of Señor Santa Anna, which refutes and explodes utterly the statement which has reached the ears, as the undersigned is informed and believes, of the honorable Secretary of State, to the effect that Señor Santa Anna pretended to have had the specific authority of the President of the United States for his procedure at Vera Cruz. That proclamation, be it fully noted, was put forth not until Señor Santa Anna was formally invited by those in command at Vera Cruz—being the imperialists—to restore the republic. Could the government of the United States, its agents and officers at Vera Cruz, or in those waters, object to that?

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It will be observed that Señor Santa Anna, having been made a prisoner by the commander of the United States steamer Tacony, was still a prisoner to the United States, on board of a mail steamer of that nation, and was not in or near the port of Sisal with his own volition, nor had he gone or intended to go thither with any views of variance with the well known policy of the honorable Secretary of State towards Mexico. But, in any case, the undersigned respectfully submits that it will scarcely be maintained that Señor Santa Anna has not the right to sustain a policy of his own country. Be that as it may, at the time of his unlawful seizure he was under duress, and an unwilling passenger on board the Virginia, the commander of which vessel was ordered to land him at New York, and *not* to land him on Mexican soil. The invasion of the Virginia was the equivalent, and was in effect the boarding by violence of a ship constructively in commission by the United States, and as the offence was committed on the high seas, there can be no milder term for it than that already used, namely, piracy. Be the temporary character of the Virginia what it may have been, she was at all events a vessel sailing under the United States flag, belonging to citizens of the United States, and engaged in a lawful voyage. To borrow the text of Earl Russell in a recent memorable case, (the Trent,) "it thus appears that certain individuals have been forcibly taken from on board a British [an American] vessel, the ship of a neutral power, while such vessel was pursuing a lawful and innocent voyage—an act of violence which was an affront to the British [the American] flag and a violation of international law." Señor Santa Anna was violating no law of the United States; was not compromising the neutrality of that government: his expedition (if it may be so termed) was one of peace and good will, and deserved the applause and support of all honorable men. The port of Sisal (so-called) is an open roadstead not embraced by any headlands, and vessels anchor at from two to seven miles from the shore according to their draught of water. A ship of the class of the Virginia would cast anchor at from three and a half to four and a half miles distant from the guns of the fort and beyond their reach, which is rendered patent by the fact that it was necessary to make a *naval* attack upon her. She was, therefore, unquestionably upon the high seas, although the undersigned is aware some Mexicans believe, or affect to believe, the gulf of Mexico to be a Mexican lake—the expression *Seno Mexicano* (Mexican bosom) contributing to that unwholesome delusion.

It may not be out of place, or in bad taste, to refer to certain large pecuniary interests which citizens of the United States have in the safety of Señor Santa Anna—being loyal parties, his creditors, who have advanced the funds necessary to meet his heavy expenses during a somewhat protracted residence in this country. This consideration should, however, weigh as nought in comparison with the serious international wrong resulting from, to use a mild expression, the violation of the safe-conduct of the United States.

The liberal government (so-called) of Mexico, elevated by recent temporary successes, and drunk with the gore of distinguished victims, are capable at any moment of sacrificing Señor Santa Anna to their blind fury—the more especially as he has been placed in their power by a government to which the said liberal government owes its continued existence. His age, his infirmities, his distinguished services to the republic, the fact that his recent mission had for its object the restoration of the republican form of government which *he* established near half a century ago, would be of no avail in pleading for justice and humanity. And it may here be added that, but for the intermeddling of the United States consul at Vera Cruz, and of the commander of the Tacony, the life of the ill-starred Prince Maximilian might have been saved!

In conclusion, the undersigned appeals, in the sacred names of honor, justice, and the rights of hospitality, for the immediate interposition of the government of the United States in behalf of Señor Santa Anna, and of his kinsman and

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secretary, Señor Vidal y Rivas, and their safe delivery within the jurisdiction of the United States.

The undersigned has the honor to assure the honorable Secretary of State of his most distinguished consideration.

G. NAPHEGYI.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*,
Washington, D. C.

STATE OF NEW YORK, *County of Richmond, Village of New Brighton, ss:*

Hans Casper Baron Von Nostitz, being duly sworn, says that on the 22d day of May, 1867, he left the port of New York as a passenger on board the United States mail steamship Virginia for Vera Cruz, Mexico; that General Antonio Lopez de Santa Anna was also a passenger on board of the same steamship; that on the 3d day of June, instant, said steamship arrived in the harbor of Vera Cruz; that immediately after the pilot left the steamer, the captain of the port, accompanied by the mayor of the city of Vera Cruz and another gentleman, visited the steamer and requested to see General Santa Anna, and remained on board in conversation with him about a quarter of an hour. After their departure, the commissary of the emperor, Don Domingo Burean, the commanding general of Vera Cruz, Toboada, and the captain of the port, each accompanied with their staff officers, visited said steamer to congratulate General Santa Anna, and invited him to come to the city and take command of the same.

Shortly after this, and while the persons above mentioned were on board, General Perez Gomez, commander of the castle San Juan de Ulloa, came on board and invited General Santa Anna to accompany him to the castle, and remain with him until proper arrangements should be made in the city for a grand reception of the general. It was then agreed upon by all the parties that the general should accompany General Perez Gomez, and they all left the vessel. General Santa Anna, with his private servant, and his secretary, Colonel L. Vidal, went with General Perez Gomez to the castle, and the other parties went to the city of Vera Cruz.

On the arrival of General Santa Anna at the castle, the band were playing a march of welcome, and the whole garrison shouting "Viva el General Santa Anna!" As soon as it was known that General Santa Anna was on board the steamer Virginia, the people at Vera Cruz thronged the piers, anxious to receive and welcome him, and all the boats available came off to the Virginia, filled with people to welcome him, and the excitement was so great that guards were placed on the pier to prevent the rush of people.

General Santa Anna remained in the castle one day and a half, and while there the city authorities were invited by the commanding general to visit the castle and dine with General Santa Anna.

In the mean time, while General Santa Anna was at the castle, a meeting was called by the imperial commission in the palace of Vera Cruz to consider as to the manner for the reception of General Santa Anna. A great debate took place in regard to the matter, as the general had on board of the Virginia assured them he was only in favor of a republic in Mexico, and the city then being in the possession of the imperialists, they finally came to the conclusion to proclaim the general the commander of the garrison of Vera Cruz, and only proclaim the republic when they were satisfied that Maximilian was captured, and the empire at an end. When the vote was taken only General Cuevas, a staunch imperialist, was opposed on account of his being a close adherent to Maximilian, yet he was overruled and the act signed, and the programme prepared as to the manner of receiving the general, which was to take place on the 7th instant.

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The programme for the reception was that the general should be escorted to the city on the 7th instant, one hundred and one guns to be fired from the castle Ulloa, and workmen had already begun to build arches and decorate the city.

In the mean time the American consul, Mr. Solnier, and the English consul, Mr. Ledward, who publicly announced that they were in secret treaty with the liberals for the surrender of the city, fearing the general's arrival and reception would frustrate their plans, reported that the general had gone to the castle Ulloa with the intention of bombarding the city. This report having reached the castle, the general, to contradict it, immediately left and repaired to the steamer.

On his arrival on the steamer General Cuevas, who had heretofore opposed the reception of the general, visited the steamer with General Heran, and after a long conversation with the general, offered him his support in favor of the republic.

About an hour after their departure from the steamer, the American and English consuls came on board, and were introduced by Captain Deaken to the general, and while at the table the topic of conversation was the policy to be pursued by General Santa Anna when in the city, and the American consul, more so than the English consul, professed to the general his sincere support, saying that at first, not having known the general's views, he was opposed to his being received; but now, on learning them from the general in person, he would do all in his power to favor him. They remained on the steamer with the general from twelve until three o'clock, and then left in the most friendly manner.

About 10 o'clock at night of the 6th of June, the captain of the port brought on board the Virginia despatches from the imperial commissioner, enclosing the "acta," duly signed by all the authorities at Vera Cruz, in which they invited the general to come on shore, and that they were ready to declare for the republic.

On the 7th instant, in the morning, the imperial commissioner, with the city authorities, came on board and informed the general that all was ready for his reception in the city, which would take place in the afternoon; they remained on board about four hours.

At about 2 o'clock in the afternoon of the same day, a boat pulled toward the Virginia. This boat belonged to the English man-of-war Jason, and carried the American and English flags on the same standard, they being sewed together, so that one side represented the English, and the opposite side the American flag, which latter was taken, as deponent was informed, from the American consul at Vera Cruz, and sewed to the English flag, before they left the city.

This boat was manned by about twelve sailors belonging to the English man-of-war Jason. They arrived alongside, and Commander Roe, of the United States steamer Tacony, and Commander Murray Ainslie, of the English steamer Jason, boarded the Virginia and inquired of an officer of the Virginia for the captain; hereupon Captain Deaken, hearing the inquiry, stepped up and said, "I am that person." Commander Roe then said to him, "I want to see Mr. Santa Anna." Captain Deaken replied, "There is a gentleman on board whom they call General Santa Anna." Commander Roe then asked for an interpreter from one of the officers of the Virginia, and Mr. Ed. Austin, the purser, was introduced to him. Commander Roe then said to him, "Tell Mr. Santa Anna that I invite him to accompany me on board the steamer Tacony." On this being told the general, he wished to know why this was done, when Commander Roe said he had no reasons to give, and Mr. Santa Anna must come with him or he would take him by force, at the same time calling the English sailors, who had also boarded the Virginia. The general wished to know if he was to be a prisoner of war to the American and English men-of-war, when Commander Roe replied "he might consider it as he pleased, but he must go willingly, or he would force him," and advanced, together with the English

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sailors, towards him, and roughly laid his hands on his arm. Deponent then spoke to Commander Roe and asked him not to treat the general so roughly, and told him the general was a cripple and had only one leg. He replied he "would take him if he had to break the other leg of the damned old scoundrel." Deponent then walked up to the general, pushing back the English sailors, and offered him his arm and led him to the side of the Virginia. Commander Roe then ordered Captain Deaken to be with the steamer Virginia alongside of the Tacony the next morning at twelve o'clock, at Sacrificios.

The general then got into the Jason's boat, accompanied by his servant and his interpreter; they were then taken to the United States steamer Tacony.

Shortly after this deponent went ashore at Vera Cruz and found crowds of people awaiting the arrival of General Santa Anna. Deponent went immediately to the imperial commissioner, and found with him several generals and other persons; and on relating to them what had happened they were very indignant at the interference on the part of the American and English commanders.

Deponent went to Mr. Vidal, the private secretary of General Santa Anna, and informed him of what had happened, and he immediately went to the office of the American consul and desired to make a legal protest, when the American consul pretended to know nothing about the matter and refused to receive any protest, but said General Santa Anna would on the next day by twelve o'clock be again placed on board the Virginia. From here the secretary of the general, Mr. Vidal, went to the Spanish consul and made a legal protest, which was accepted and received.

Next day the Virginia sailed from Vera Cruz and stopped at Sacrificios, when General Santa Anna was sent on board by a boat from the Tacony. At the same time a boat from the Tacony, with an officer and some thirty sailors, was made fast to the Virginia as a guard, and a small boat from Vera Cruz, containing a daughter of General Santa Anna, came up to the Virginia, but the officer in the boat of the Tacony refused to allow her to go on board the Virginia, sending her to the Tacony to obtain permission to see her father; and the officer in charge refused it, and she was compelled to return to Vera Cruz.

The Virginia then proceeded to sea, with the boat of the Tacony, with the officers and sailors on board, towing behind; and the Tacony also followed us some twenty miles. On the pilot leaving the Virginia he went into his own pilot-boat, and she was boarded by the Tacony's boat which we had towed behind, and the pilot was searched from head to foot, even having to take off his boots, to search if any papers were on his person.

The Virginia then proceeded on her voyage to New York. On the eleventh day of June we arrived at Sisal, at three o'clock in the afternoon.

On the 12th of June the commander of the liberal forces at Sisal came on board the Virginia and said he had orders from General Pereza to take General Santa Anna on shore. The captain of the Virginia refused to deliver him up, stating that he was a passenger in transit and a prisoner to the United States, and should be delivered at the city of New York.

The Mexican gunboats had in the mean time surrounded the Virginia. The commandant then went on board one of these gunboats, when all three of them anchored and brought their guns to bear on the Virginia.

Don Louis Gomez, the commander of the fleet, then came with his boat to the Virginia, boarded her, and demanded the surrender of the general, which the captain of the Virginia again refused. The boat then returned to the gunboat.

Shortly after this a boat with twelve armed soldiers, commanded by Manuel Romero, boarded the Virginia. Three of the soldiers came on board with said officer, when the general, with Colonel Vidal Luttwitz and deponent, got into the boat and were taken on shore.

The general was conveyed away from us with Colonel Vidal as prisoners, and

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Luttwitz and deponent, after a consultation between the generals, released and sent back to the steamer Virginia.

HANS VON NOSTITZ.

Subscribed and sworn before me this 24th day of June, 1867.

THEODORE C. VERMILYE,
Police Justice of the village of New Brighton.

STATE OF NEW YORK, *County of Richmond, village of New Brighton, ss:*

Louis Luttwitz, being duly sworn, says that he was a passenger on board the steamer Virginia, on her voyage from New York to Vera Cruz, and back to New York. That he has read the foregoing affidavit of Hans Casper Von Nositz, and as to the facts therein stated, (but not as to conversations, as deponent does not speak or understand the Spanish language,) he knows the same to be true, and he was present when the transactions therein referred to took place.

LEWIS LUTTWITZ.

Subscribed and sworn before me this 24th day of June, 1867.

THEODORE C. VERMILYE,
Police Justice of the village of New Brighton.

STATE OF NEW YORK, *County of Richmond, village of New Brighton, ss:*

Edward Gottlieb, being duly sworn, says he was a passenger on board the steamer Virginia, with General Santa Anna, and accompanied him as his interpreter. That he has read the foregoing affidavit of Hans C. Von Nostitz, and knows the contents thereof, and that the whole thereof is true; and deponent was present at all the transactions and conversations therein set forth.

EDWARD GOTTLIEB.

Sworn before me this 24th day of June, 1867.

THEODORE C. VERMILYE,
Police Justice of the village of New Brighton.

DISTRICT OF COLUMBIA, *County of Washington:*

I, John H. McCutchen, a notary public in and for the county and district aforesaid, do hereby certify that I have compared the foregoing with the original, and that the same is a true copy thereof.

In testimony, I have hereunto set my hand and affixed my notarial seal this 3d day of July, 1867.

[SEAL]

JOHN H. McCUTCHEN,
Notary Public.

CONSULATE GENERAL OF THE UNITED STATES OF AMERICA, *Havana, Cuba:*

By this public instrument of declaration or protest, be it known and made manifest unto all to whom these presents shall come or may concern, that on the day of the date hereof, before me, Thomas Savage, vice-consul general, in charge of the consulate general of the United States of America for Havana and the dependencies thereof, personally came and appeared John Deaken, master of the steamship Virginia, of New York, of the burden of 521 tons or there-

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abouts, now lying in the port of Havana, having arrived this very day from Vera Cruz, via Sisal, Mexico, and bound to New York; and together with the said John Deaken also came Edward Austin, purser, and George Sloan, first mate of the steamer aforesaid; all of whom being by me sworn upon the Holy Evangelists of Almighty God, did severally, voluntarily, freely, and solemnly declare as follows, to wit: That they, with the said steamship Virginia, sailed from the port of Vera Cruz on the eighth day of June, and having on board several passengers, among them Don Antonio Lopez de Santa Anna, ex-president of Mexico, Don L. Vidal y Rivas, also of Mexico, and other persons belonging to the suite of the said Santa Anna. That the said ex-President Santa Anna was placed on board the steamer Virginia by Commander Roe, of the United States ship Tacony, at Vera Cruz, and the said John Deaken was directed to take him (Santa Anna) anywhere he pleased to go to, not in Mexico; that with this understanding they went to sea, and, as usual, touched at Sisal on the eleventh day of this month, at about 3.30 p. m. On the twelfth, before 6 a. m., a Mexican officer, named Mariano Robledo Romero, accompanied by a file of soldiers, boarded the Virginia, forcibly took therefrom the persons of Antonio Lopez de Santa Anna and L. Vidal y Rivas against their will, and notwithstanding the formal protest of the said master of the steamer, who had had the assurance of said Santa Anna of his intention to land and remain at Havana, in the island of Cuba. That this unjustifiable act was preceded by a show and exhibition of force and threats on the part of the Mexican officer above named, and others, to fire into the Virginia if she attempted to leave the port with said Santa Anna and Rivas; the steamer was surrounded by three armed Mexican schooners, with their guns pointed at her; all the reasonings, explanations, and protests on the part of the master were entirely useless, and the said Santa Anna and Vidal y Rivas were taken on shore, which they, the said appearers, consider a violation of the flag of the United States, and an act of an entirely unjustifiable character. Therefore the said master did declare to protest, as by these (protest) presents he doth solemnly protest, against the action of said Mariano Robledo Romero, and declare the said Romero and his superiors responsible for all damages or injuries that have already occurred or may or shall hereafter occur to the said Antonio Lopez de Santa Anna and L. Vidal y Rivas, and also to the steamer Virginia aforesaid.

Thus done, protested, and subscribed before me, the said consular officer, by the said John Deaken, master, and witnessed by the said purser and first mate, this fifteenth day of June, A. D. eighteen hundred and sixty-seven.

[SEAL.]

JOHN DEAKEN, *Master.*
EDWARD AUSTIN, *Purser.*
GEORGE SLOAN, *First Mate.*

In testimony whereof, I hereunto set my hand and affix the seal of my office at Havana, on the day and year above written.

THOMAS SAVAGE,
United States Vice-Consul General.

On the day and date hereof, before me, the undersigned, vice-consul general in charge of the consulate general of the United States of America for Havana and the dependencies thereof, personally appeared John Deaken and Edward Austin, and being by me sworn according to law, solemnly declared that there was no consul or other agents of the United States of America, or of any friendly nation, at Sisal at the time of the last visit of the steamer Virginia, with the said appearers on board, to that port, on the 11th and 12th of June instant, for which

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reason he (said Deaken) could not make a written protest in due form at that place against the proceedings of the officials there towards his ship in forcibly taking passengers out of her.

JOHN DEAKEN, *Master.*
EDWARD AUSTIN, *Purser.*

In testimony whereof, said appearers have hereunto signed their names, and I, the said consul general, have hereunto set my hand and seal, at Havana, the 15th day of June, 1867.

[SEAL.]

THOMAS SAVAGE,
United States Consul General.

CONSULATE GENERAL OF THE UNITED STATES OF AMERICA, *Havana, Cuba:*

I, the undersigned, vice consul general of the United States of America for Havana and the dependencies thereof, do hereby certify the foregoing copy of a protest and affidavit to be a true copy of the originals on file in the office of this consulate general.

Given under my hand and official seal, at Havana, this 17th day of June, A. D. 1867.

[SEAL.]

THOMAS SAVAGE,
United States Vice-Consul General.

COUNTY OF WASHINGTON, *District of Columbia, ss:*

I hereby certify that I have carefully compared the foregoing paper with the original, and find it to be a true and faithful copy thereof.

Given under my hand and seal of office this 6th day of July, A. D. 1867.

[SEAL.]

N. CALLAN,
Notary Public for the County of Washington, D. C.

STATE OF NEW YORK, *City and County of New York:*

John Deaken, of said city, being duly sworn, says that he was the captain of the United States mail steamer Virginia on her last voyage from New York to Sisal and Vera Cruz, and back to New York. That on the morning of the twelfth day of June, 1867, General Antonio Lopez de Santa Anna was taken from said steamer Virginia while lying off the port of Sisal, and that said General Santa Anna was taken by force, by the authorities, while said steamer Virginia was anchored more than three marine leagues from the port of Sisal, State of Yucatan.

JOHN DEAKEN.

Sworn before me, the 5th day of July, 1867.

M. W. VIDELL,
Notary Public of City and County of New York.

COUNTY OF WASHINGTON, *District of Columbia, ss:*

This is to certify that I have carefully compared the foregoing paper and find it to be a true and faithful copy of the original.

Given under my hand and seal of office this sixth day of July, A. D. 1867.

[SEAL.]

N. CALLAN,
Notary Public for the County of Washington, D. C.

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[Translation.]

Antonio Lopez de Santa Anna, general of division of the national armies, well deserving of his country, &c., to his fellow-citizens:

Mexicans: Once more in my native land, I greet you with the deepest emotions of my soul. You certainly remember the old veteran of independence; you know the voice that was heard proclaiming "liberty or death," in the midst of combats.

Listen to me now, as you did then.

I come from the United States of the North, where patriotic purposes had led me, to seek aid for those who were gallantly contending against an invading foe, that longed for the subjection of the country at every risk, and whose pertinacious conduct plainly showed he would not willingly relinquish his designs. Unexpected obstacles opposed my progress, and though I overcame them, affairs assumed new phases.

The French vanished. But, ah! fatality seems to follow this unfortunate people. A sanguinary contest between brothers has begun; the dispute is about the form of government under which we must live in future; blood flows freely, and the agony is prolonged. I cannot remain an unmoved spectator amid such calamities; and therefore I present myself before you, to embrace you cordially, and offer you my feeble services.

My mission is one of entire peace, as pacificator in a distracted family, whose members are destroying each other, and will not become reconciled. I trust your patriotism will not repel my good intentions.

Citizens of Vera Cruz: In better days your district was the arena of our national glories. Your battlements recall the eventful day of the 27th of October, 1821, when, with my own hands, I raised the Trigarant flag upon them. Here also, on the second of December, 1822, I planted the tree of liberty, and on the fifth of December, 1838, as I drove back the foreign invader, my body was mutilated, and I watered that tree with my blood. These are notable facts in our history, and they give me the right to confide in your benevolence.

Fellow-countrymen: The clangor of arms is heard no more, and we have leisure to debate in reason. Let us appeal to the decision of a national congress, elected freely by the people, and respect that sovereign will of the nation, be what it may. Thus order may be permanently restored among us, and peace will once more flourish—a peace that is needed to repair our many misfortunes. Reconciliation in the Mexican family, to which I belong, was never more needed; let enmity and persecution cease; let oblivion conceal the past, and the sacred mantle of patriotism cover our errors.

Friends: To preserve our nationality, let us live in union. United we stand, divided we fall. We have a sad lesson of this truth. Listen to the counsels of experience from an old friend, your ancient chieftain. On the verges of the tomb, what ambition can I have? Before closing my eyes forever, I wish to see you tranquil and prosperous, respected and happy, with entire control over the vast and envied resources embraced by our favored country.

Heroic city of VERA CRUZ, *June* 4, 1867.

A. L. DE SANTA ANNA.

COUNTY OF WASHINGTON, *District of Columbia, ss:*

This is to certify that I have carefully compared the foregoing paper, and that I find it to be a true and faithful copy of the original.

Given under my hand and seal of office, this sixth day of July, A. D. 1867.

[SEAL.]

N. CALLAN,
Notary Public for the County of Washington, D. C.

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Mr. Welles to Mr. Seward.

NAVY DEPARTMENT,
Washington, July 8, 1867.

SIR: I have the honor to transmit herewith, and to request that you will return the same after perusal, despatch No. 105, dated the 3d instant, from Rear-Admiral James S. Palmer, enclosing copies of reports numbered 1, 2, 3 and 4 from Commander Roe, relative to affairs at Vera Cruz.

Very respectfully,

GIDEON WELLES,
Secretary of the Navy.

Hon. WILLIAM H. SEWARD,
Secretary of State.

No. 105.] FLAGSHIP SUSQUEHANNA,
Navy Yard, Norfolk, Va., July 3, 1867.

SIR: I enclose a number of communications marked Nos. 1, 2, 3 and 4, from Commander Roe, addressed to Commodore Winslow, which I found upon my arrival on board the Susquehanna this morning, sent me by way of Havana. As they convey some news to me of what has been going on at Vera Cruz, they may be interesting to the department.

Very respectfully, your obedient servant,

JAMES S. PALMER,
Rear-Admiral, Comd'g North Atlantic Squadron.

Hon. GIDEON WELLES,
Secretary of the Navy, Washington, D. C.

No. 1.] UNITED STATES STEAMER TACONY,
Off Sacrificios, Mexico, May 10, 1867.

SIR: While I was at the headquarters of General Benavides, (liberal camp,) I was informed by him that he was ignorant of the communication addressed to the United States government by the Austrian minister in relation to the Prince Maximilian, and also the reply of Hon. William H. Seward, Secretary of State. I therefore deemed it proper to address the enclosed letter to President Juarez, informing him of the correspondence, believing that the despatch of Mr. Seward would, in all probability, fail to reach the chief of the government of Mexico.

I respectfully enclose a copy of this letter, marked D.

I am, sir, very respectfully, your obedient servant,

F. A. ROE,
Commander, Commanding.

Commodore J. A. WINSLOW,
Commanding Gulf Squadron, Pensacola, Fla.

D.

CAMP CASA MARTA, MEXICO, *May* 3, 1867.

SIR: I have the honor to inform you that by the last mail received from the United States, I have intelligence that the minister of foreign affairs of my government has directed a courier to be sent to you to beg, upon the part of my government, that in the event of the capture as a "prisoner of war" of the Prince Maximilian of Austria, his excellency the President of Mexico may be pleased, through a spirit of clemency, and also of friendship for the United

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States, that the Prince Maximilian may be spared his life, should it be in danger

I thus address you because it is my duty to my government, knowing that its courier may not reach you, on account of the uncertainties of the condition of a state of war.

With profound respect, I have the honor to be, sir, your obedient servant,

F. A. ROE,
Commander U. S. Navy.

His Excellency President JUAREZ,
Republic of Mexico.

No. 2.] UNITED STATES STEAMER TACONY, (3d rate,)
Sacrificios, Mexico, May 10, 1867.

SIR: I respectfully continue my report from its last date of 30th April.

The imperial commissary, commanding at Vera Cruz, having manifested a desire to hold a conference on board the Tacony with the liberal commanding general, all the preliminaries were arranged.

The imperialist then verbally declined to carry out his own proposition. I was then requested to visit General Benavides, (liberal,) to ascertain what would be the general basis of terms granted, if the city should be turned over to him; and, also, to ask if he would consent to hold a conference. To all this I found him willing and ready to meet at any time we should appoint. Then the British and United States consuls addressed themselves to the imperialist, who replied in writing, a copy of which is enclosed (marked A,) that he would meet on the 6th of May. General Benavides being again notified to hold himself ready, the morning of the 6th came in with a heavy norther and no communication even with Vera Cruz itself could be had. On the 8th, and so soon as the weather allowed us to communicate, the English commanding naval officer visited the United States and British consuls at Vera Cruz, to arrange and appoint a new and near date for the proposed conference. The 9th of May was designated by the consuls to the imperial commissary as the most convenient day; and upon applying to him for his opinion and wish, he again peremptorily refused to hold any conference or meeting whatever, except it might be upon the basis of the removal of the liberal forces three days' march from Vera Cruz, and of course the abandonment of their batteries and investing lines. That declaration was more than tantamount to a refusal to carry out his own desire, although it had caused the English commander and myself a great deal of trouble. I, therefore, in behalf of the English captain and my own, addressed a copy of the enclosed letter (marked B) to General Benavides, together with a copy of a letter to imperial commissary, to the effect that all mediation was at an end with a man who had twice sought it, and who had twice failed to meet it when the time arrived.

I enclose a copy of his reply translated, (marked C.) The "situation," therefore, is *in statu quo;* but General Benavides yesterday sent me word that, in a day or two, he would have heavy batteries and heavy guns planted, and that within eight days the city would be bombarded and in his possession. Warnings and requests have already been given and made to the imperial authorities that serious operations would commence, and an earnest and passionate request preferred to the imperial commander that Mexican families, all women and children, might be permitted to leave the city. The imperial commander refuses to let them go. He has only offered the castle for refuge, where people are already dying like sheep.

This imperialist has verbally declared to the United States and British consuls that he recognizes the imperial authority and government at an end; but that to prevent anarchy, riot, and bloodshed he will not relinquish his position; "some one can come and relieve him of his command!" In one word, this

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simply means that the revenues of the city and custom-house are passing into his purse, that he is to hold on to his position until force drives him from it, and that, under the fact of having ships at hand under the castle to take himself and officers and their plunder away at any hour they choose to go, it is a safe and money-making business. There is no nationality here at all. The imperial flag is carried, it is true, but the irresponsible authorities acting now in Vera Cruz are precisely in the light and position of brigands and pirates, who hold the place only *at their own caprice.*

It seems to me clear, sir, that there never was a position or a case where forcible interference by all nationalities could and *should* interfere in behalf of duty and right as here. Imperial orders for custom-house money and revenues are dishonored by imperial authorities here. The English minister has declared to his consul that the imperial government is at an end. The imperial authorities here disavow and ignore the imperial sovereign and orders. All classes wish for this state of things to end.

In the mean time, foreigners of all kinds, and Mexicans and citizens, are at the mercy of an armed brigand, who acknowledges no authority and no government, and who is putting the revenues of the city of Vera Cruz into his purse, and who keeps ships at hand to carry him away, at any hour he may be seriously threatened.

I am in good accord with English and French commanders here. We all agree, and yet there is no authority or power for us to do that which humanity and the interests of the world hourly and daily appeal to us to do. It is my belief that if a simple authoritative demand to this imperial brigand, who now acknowledges himself without a master, to surrender his command, were made, it would be done.

Such, sir, is the political and military situation at Vera Cruz.

Queretaro is still besieged. The city of Mexico is also besieged, and there can be no hopes of final success or relief for either of the imperial commanders.

In the mean time I am receiving on board of my ship families of United States citizens who are fleeing the country, and putting them on board of vessels sailing away. I am often embarrassed by the presence of families of women and children night and day, but I afford them that protection and assistance which they claim at my hands.

My bread will not last longer than the first of June, and I shall be compelled to buy bread for ten days to hold out with the other portions of rations.

I shall be obliged to leave Vera Cruz by the first of June if I am not relieved, or if I do not receive rations.

I am, sir, very respectfully, your obedient servant,

F. A. ROE,
Commander, Commanding.

Commodore JOHN A. WINSLOW,
Commanding Gulf Squadron, Pensacola, Florida.

A.

[Translation.]

VERA CRUZ, *May* 4, 1867.

GENTLEMEN: In reply to your esteemed note of this date, I beg leave to state to you that on Monday, the 6th instant, at 10 o'clock a. m., I will proceed on board the United States steamer Tacony, with the object of having the conference mentioned in your aforesaid communication.

I have the honor to be, gentlemen, your obedient servant,

D. BUREAU.

FREDERICK LEDWARD AND E. H. SAULNIER,
&c., &c., &c., Vera Cruz.

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B.

UNITED STATES STEAMER TACONY,
Vera Cruz, Mexico, May 8, 1867.

SIR: I have the honor to make to you the following statement: That, when I sought you to request an interview on board the Tacony, in presence of the British civil and naval commanders, in conjunction with the United States consul and myself, it was in consequence of a verbal request preferred by the imperial commissary commanding at Vera Cruz, and subsequently from a written one, a copy of which is herewith enclosed.

I feel it incumbent upon me, and am requested by the British naval commander, also, to apologize to you for the trouble caused by the false hopes indulged in by us, of a pacific solution of affairs in Vera Cruz, and which attempts are all rendered abortive by the extraordinary attitude assumed by the imperial commissary. In making these offers of mediation with this commissary, we have acted upon his own personal request, and supposed, most naturally, he was in good earnest. It appears that he was not. In all this matter the British and United States powers here have acted in good faith and in an earnest desire to save loss, and perhaps bloodshed, and to facilitate the ardent desires of both parties.

We consider that bad faith has been displayed by the commissary, and we now leave matters to their own natural solution and to the course of war.

I am advised to address you this communication by the British authorities, and also by the United States consul, and moreover by my own sense of duty.

There is nothing more to expect in the way of a pacific solution of the question by way of mediation or of friendly offers of service.

I am, sir, very respectfully, your obedient servant,

F. A. ROE,
Commander U. S. Navy.

General R. BENAVIDES,
Commanding Investing Forces of Vera Cruz, Army of Mexico.

[Translation.]

CAMP CASA MARTA, *May* 9, 1867.

SIR: The undersigned, general in chief of the troops operating against the rebels who occupy Vera Cruz, has the honor to receive the note of Mr. F. A. Roe, commander of the United States gunboat Tacony, and has considered its contents, and at the same time he has conveyed it to the knowledge of his government.

The undersigned abandoned to the authority of the worthy officers of the ships-of-war of North America and England the conduct of the agent of the Archduke Maximilian, who maintains an armed resistance in Vera Cruz. Also he congratulates himself upon the elevated sentiments of such naval gentlemen, who officiously, and with the most laudable will, sought to draw into a reasonable path those rebels, endeavoring to avoid the consequences of a decisive operation.

He has also received the document accompanying the note.

The undersigned assures to Commander Roe his distinguished consideration.

R. BENAVIDES,
General in Chief.

Mr. F. A. ROE,
Commanding the U. S. Gunboat Tacony, Sacrificios.

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No. 3.

UNITED STATES STEAMER TACONY, (3d rate,)
Sacrificios, Mexico, May 13, 1867.

SIR: The commander of the Austrian corvette Elizabeth called upon me yesterday, from Green island, to ask me for news in regard to the despatch of honorable Mr. Seward, Secretary of State of the United States, to President Juarez, in behalf of Prince Maximilian; and also to ask me to request General Benavides to permit him to send a courier to the city of Mexico, to ascertain news of his prince.

I gave to the Austrian commander a copy of my letter to President Juarez, of which a copy is also transmitted herewith.

I have been shown, by the commanding officer of the English squadron here, an official despatch from the English minister at Mexico, instructing British authorities here that all diplomatic relations had ceased in the city of Mexico between the imperial authorities here and all the representatives of foreign powers.

I am, sir, very respectfully, your obedient servant,

F. A. ROE, *Commander.*

Commodore J. A. WINSLOW,
Commanding Gulf Squadron, Pensacola.

No. 4.

UNITED STATES STEAMER TACONY, (3d rate,)
Off Sacrificios, Mexico, May 17, 1867.

SIR: I respectfully enclose, herewith, a copy of a correspondence between Mr. E. H. Saulnier, United States consul at Vera Cruz, and myself, in relation to a schooner chartered by the authorities of Vera Cruz; and also in relation to a forced loan proposed to be executed by the imperial commissioner at Vera Cruz upon foreign citizens.

I am, sir, very respectfully, your obedient servant,

F. A. ROE, *Commander.*

Commodore JOHN A. WINSLOW,
Commanding Gulf Squadron, Pensacola, Florida.

CONSULATE OF THE UNITED STATES OF AMERICA,
Vera Cruz, May 15, 1867.

SIR: On Sunday last, 12th instant, the American schooner Annie E. Marten, Hugh H. Nicholson, master, left this port for Sisal, under charter with a Spaniard here, to proceed to Sisal for cattle and provisions for this city. Said Spaniard, Antonio Gomez de la Serna, the same that is contractor for the English ship of war, sold his charter to the authorities of this city. Said authorites, I understood, have shipped on said schooner some twenty-one boxes of muskets for Sisal, unknown to me, and perhaps to the master of said schooner. On Monday, the 13th instant, the Spanish steamer from Havana and Sisal arrived here with the intelligence of the capture of Sisal by the forces of the republican government of Mexico. In consequence of said intelligence, the French steamer Sonora was forthwith chartered by the authorities here to go in search of said schooner and bring her back to this port, chartered at the rate of $20 per hour.

Now, what I have to suggest for your consideration is, that in consequence of this flagrant abuse of our flag, and the deception perpetrated by the authorities

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of this city, whether you do not consider it your duty to take charge of said schooner, should she return for this port, and place her under your guns at Sacrificios until ample satisfaction can be given by the authorities, or time givne us to determine as to the disposition to be made of said vessel.

With much respect, your obedient servant,

E. H. SAULNIER,
United States Consul.

Commander F. A. ROE,
Commanding the U. S. Steamer Tacony, Sacrificios.

UNITED STATES STEAMER TACONY, (3d rate,)
Sacrificios, May 16, 1867.

DEAR SIR: Your letter of the 15th, in relation to the schooner Annie E. Marten, is received, and attentively considered.

When I consider the state of war existing here, and the necessities which are the products of it, and as the master of the schooner chartered his vessel, or sold her services to the authorities of Vera Cruz, I do not see that any one is to blame but himself; certainly it is no worse to carry muskets to an enemy than it would be to carry him cattle or bread and meat, especially if he were undergoing a siege, one of the hardest operations of war.

Moreover, the master, I think, can hardly exonerate himself (if there is blame) by declaring his ignorance of the cargo.

I cannot think it would be proper for me in anywise to interfere with the Marten. Last evening I spoke the Sonora, who reported that she was coming back to Vera Cruz, which one may very easily doubt.

Very truly, yours,

F. A. ROE, *Commander.*

E. H. SAULNIER, Esq.,
United States Consul, Vera Cruz.

CONSULATE OF THE UNITED STATES OF AMERICA,
Vera Cruz, May 15, 1867.

SIR: The authorities of this city being about to imitate the example of the notorious General Marquez, the representative of the emperor, or self-styled emperor of Mexico, by levying war taxes on and compelling foreigners by armed force to satisfy their demands for money, I wish to bring to your mind the fact that the authorities in this city, the representatives of a government disowned by the entire diplomatic corps in the city of Mexico, are usurping illegal power in the spoliations being committed by them, and for your re-consideration whether some immediate action in connection with the English commander may not be of great benefit to the interest of our commerce with this city at this present moment.

With much respect, your obedient servant,

E. H. SAULNIER,
United States Consul.

Commander F. A. ROE,
United States Ship Tacony, off Sacrificios.

UNITED STATES SHIP TACONY, (3d rate,)
Sacrificios, May 16, 1867.

SIR: Although the official interview yesterday at the consulate of France, of the French, English, and United States naval commanders, together with the

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consular representatives of their respective governments, in the presence of Mr. Bureau, the imperial commissioner commanding Vera Cruz, resulted in a favorable declaration tc us, as representatives of foreign powers, and as his promise that no war tax or forced loan should be levied upon foreigners does away with fears for the future, and the question is forever settled, yet I would respectfully advise, that should any attempt be made to levy a war tax, forced loan, or extra duties on goods that have already cleared the custom-house, you should at once protest and refuse to pay such illegal amounts, at the same time informing Mr. Bureau that should force be used, it will be at his own risk and peril, and that I will hold him responsible for the very grave consequences that must follow. However, should it be required that the goods in the custom-house be cleared at once, I am of opinion, that, as there is no bonding in Vera Cruz, the revocation of a privilege granted (as I understand) by the French, during their military occupation of Vera Cruz, cannot be looked upon as an illegal act, and still less in the case of parties who have accepted the 25 per cent. deduction on duties, and the more especially if on the part of the same cargo, order, or commission.

Very respectfully, your obedient servant,

F. A. ROE,
Commander United States Navy.

E. H. SAULNIER, Esq.,
United States Consul, Vera Cruz.

Mr. Naphegyi to Mr. F. W. Seward.

EBBITT HOUSE, *July* 10, 1867.

Mr. G. Naphegyi presents his compliments to the Hon. Frederick Seward, Assistant Secretary of State, and requests the honor of a brief interview with him.

Mr. Naphegyi would say, that the interview sought has reference to matters other than that upon which he addressed the honorable Secretary of State on the 6th instant.

He feels no uneasiness with regard to the subject of that note; indeed he is satisfied the government had, on its account and motion, anticipated his request by many days, although he had no right to assume as much in an official note.

The interview now sought has reference to matters of such grave importance that Mr. Naphegyi does not feel at liberty to reduce the subject to writing, nor to the verbal explanation of a third party. What he proposes to submit shall, therefore, be of the most confidential nature.

[Memorandum.]

DEPARTMENT OF STATE,
Washington, July 12, 1867.

On the 6th of July, instant, a paper was presented to the Secretary of State, which bears the signature of G. Naphegyi. Mr. Naphegyi describes himself as attorney in fact and confidential agent in the United States of Señor Antonio Lopez de Santa Anna, and in that character invites the attention of this department to certain transactions which recently occurred in the gulf of Mexico, "by which," as Mr. Naphegyi says, "the said Señor Santa Anna has been prevented from complying with the expressed wishes of his fellow-citizens with regard to the political affairs of their common country, (meaning Mexico,) and by which, almost immediately thereafter, he was deprived of his personal liberty, and his life itself placed in jeopardy."

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The paper, in the first place, implies a necessity for visiting some censur upon the consul of the United States at Vera Cruz, and upon Commander F. A Roe, of the United States steamer Tacony, stationed in that port; and, in the second place, suggests proceedings against the government of Mexico, to procure the restoration of Señor Santa Anna and his secretary, Señor Vidal y Rivas, within the jurisdiction of the United States.

Two distinct grievances seem to be complained of on behalf of Señor Santa Ana, one of which is represented to have been suffered about the 7th of June last at the port of Vera Cruz, and the other about the 12th of the same month at the port of Sisal, both of which places are in Mexico.

I shall examine first the proceedings which are alleged to have taken place at Vera Cruz, and afterwards the proceedings which are represented to have occurred at Sisal.

We are to ascertain the facts upon which the complaints are based from certain documents which accompany Mr. Naphegyi's communication, from official reports of the United States consul and the naval commander at Vera Cruz, and from documents which have been submitted by the minister of the republic of Mexico, all of which papers were gathered nto the department in a somewhat hurried manner. The tenor of Mr. Naphegyi's papers in relation to the transaction at Vera Cruz is, that the Virginia is a United States mail steamship; that she sailed from New York under command of Captain Deaken on the 22d of May last for Vera Cruz, having as passengers Señor Santa Anna; his secretary, Señor Vidal y Rivas; Mr. Hans Baron Caspar Von Nostitz, his interpreter; Mr. Louis Ludwitz, and Mr. Edward Gottlieb, all of whom are described as belonging to the suite of Señor Santa Anna. It is complained that on the 6th of June Mr. Saulnier, the United States consul, went on board the Virginia, together with her Britannic Majesty's consul, Mr. Medford, where they were introduced by Captain Deaken to Señor Santa Anna. That a conversation was had by the consuls with Señor Santa Anna upon the policy which was intended to be pursued by him while in Vera Cruz. That the American consul professed to Señor Santa Anna his sincere support, saying that at first, not having known his views, the consul was opposed to Señor Santa Anna being received there; but now, having heard them from the Señor in person, the consul would do all in his power to favor them. That after an interview of three hours, the consul left the steamer in the most friendly manner. That afterwards, on the seventh of June, Commander F. A. Roe, of the United States steamer Tacony, and Commander Murray Ainsley, of the British steamer Jason, boarded the Virginia from a launch which carried the United States and British flags. That Commander Roe asked and obtained an interview with Señor Santa Anna and invited him to accompany the commander on board the Tacony. That Señor Santa Anna asked a reason. That the commander replied that he had no reasons to give; that Señor Santa Anna must go with him, or the consul would take Señor Santa Anna by force, at the same time calling the British sailors who were on board the Virginia. That Señor Santa Anna asked if he was a prisoner of war to the American and British men-of-war. Commander Roe replied he might consider it as he pleased; he must go willingly or the commander would force him, and roughly laid his hand on the arm of Señor Santa Anna. When some one represented to Commander Roe that Señor Santa Anna was a cripple and had only one leg, the commander replied, in a profane and offensive manner, that he would take Señor Santa Anna if he had to break his other leg. That Señor Santa Anna then yielded to the persuasion of one of his suite and went with Commander Roe on board the Tacony, and the commander directed the Virginia to come alongside the Tacony the next morning at 12 o'clock, at Sacrificios. That Señor Vidal y Rivas, on learning these proceedings, visited the American consul, who pretended entire ignorance of the transaction, and refusing to receive any protest, said that Señor Santa Anna, on the next day by 12

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o'clock, would again be placed on board of the Virginia. That on that next day, the 8th, Señor Santa Anna was sent on board the Virginia by a boat from the Tacony. That the Virginia then proceeded to sea and was attended by a boat from the Tacony twenty miles, when her pilot was discharged, but not without a close personal search made by an officer of the Tacony; and Commander Roe thereupon directed Captain Deaken to take Señor Santa Anna anywhere he pleased to go, not in Mexico.

The object and purposes of Señor Santa Anna in visiting Vera Cruz are represented by Mr. Naphegyi to have been entirely peaceful and innocent, and in perfect harmony with the policy of the United States in regard to Mexico. Mr. Naphegyi denounces the proceedings of the consul and of Commander Roe as officious and in violation of the law and comity of nations.

The tenor of the documents submitted by Mr. Naphegyi in regard to the occurrence at Sisal is as follows: The Virginia having been left at sea by Commander Roe, proceeded on her return voyage towards New York, and touched at Sisal on the eleventh of June, at three o'clock in the afternoon. That on the twelfth of June the commander of the liberal forces of Mexico at Sisal went on board the Virginia, and said he had orders from General Pereza to take Señor Santa Anna on shore. The captain of the Virginia refused to deliver him up, stating that he was a passenger in transit, and a prisoner to the United States, and should be delivered at the city of New York. Mexican gunboats surrounded the Virginia. The commandant of the port then went on board one of these boats, when all of them anchored and brought their guns to bear on the Virginia. Don Louis Gomez, commander of the Mexican liberal fleet, then went on board the Virginia and demanded the surrender of Señor Santa Ana, which the captain of the Virginia again refused. Don Gomez then left the Virginia. Soon after this, a boat with twelve armed soldiers, commanded by Manuel Romero, boarded the Virginia, three soldiers coming on board with that officer, when Señor Santa Anna, with Señor Vidal y Rivas and Mr. Von Nostitz, got into the boat and were taken on shore. That Señor Santa Anna and Señor Vidal y Rivas were conveyed away as prisoners, and the other persons were released and sent back to the steamer Virginia, which afterwards proceeded to New York.

Mr. Naphegyi appeals to this government for its interposition, among other reasons, upon the distinct ground that creditors of Señor Santa Anna in the United States have large pecuniary interests in the safety of that person.

The Mexican government has presented to this government no complaint in relation to these transactions, either on behalf of Señor Santa Anna, his creditors, or otherwise. It would not be unreasonable to delay an examination of the proceedings until some complaint shall be presented by the Mexican government, or by Señor Santa Anna personally, or by his creditors, or by some person shown to be specially authorized and empowered by him or them to institute a complaint. This objection, however, will not be insisted upon, because, first, it is represented that Señor Santa Anna has been put under duress through improper proceedings of the United States consul and naval commander; and because, secondly, it is quite well known in this country that Mr. Naphegyi has been what he represents himself to be, an intimate and confidential friend or associate of Señor Santa Anna.

In order to a proper understanding of the case, it is well to remember that Mexico has been for several years, and at the time of these transactions still remained, a theatre of intestine civil war, aggravated by the most intolerable of all political evils, foreign armed intervention. That Señor Santa Anna came voluntarily to the United States, and took up his residence here some time in the year 1866. That on more than one occasion during that residence, he made application to the President of the United States for confidence, sanction, material aid and assistance, to enable him to carry on belligerent operations of

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some sort in Mexico. That during the civil war two parties have claimed sovereign power in Mexico: the first, the republican government, of which Don Benito Juarez is President; the second, that of the late Prince Maximilian, who proclaimed and sustained himself, by armed force and foreign intervention, as emperor of Mexico; that the United States have constantly disallowed the pretended imperial government of Maximilian and constantly adhered to the republican government of Mexico, even to the extent of insisting upon the discontinuance of the military intervention by the Emperor of the French. That when Señor Santa Anna applied to this government for protection, aid or favor, inquiries were made by the United States, which resulted in declarations by the republican government of Mexico that Señor Santa Anna was an enemy of the republic. The government of the United States therefore persistently refused to hold any correspondence or communication, personal or otherwise, with Señor Santa Anna or his agents, and has constantly enjoined upon its civil and military agents vigilant and energetic proceedings to prevent any unlawful expedition by Señor Santa Anna from the United States against Mexico. Such were Señor Santa Anna's relations to the republic of Mexico and to the United States; when he, without the knowledge of either this government or that of Mexico, or of any of their agents, left the United States on board the Virginia, and presented himself at the harbor of Vera Cruz at a moment when, under the remonstrances of this government, the French intervention had been terminated; when the so-called emperor Maximilian had been captured with an army and was held a prisoner at Queretaro, and the republican government of President Juarez had so far reduced the country to a condition of peace that the military forces of the Prince Maximilian occupied only the two towns of Mexico and Vera Cruz, and both of these were closely besieged by the republican military forces, with an expectation of their conquest and submission, which expectation, notwithstanding the attempted intervention of Señor Santa Anna, has since been fully realized.

Although the Virginia is a registered merchant vessel of the United States, and although she may obtain mails at the post office like other vessels, she is in no proper or just sense employed in the service of the navy or the post office, or the treasury, or any other executive department. She is entitled to the protection of the United States flag only when she is lawfully engaged in trade, and not when she becomes a belligerent against nations with whom the United States are at peace. The communication of Mr. Naphegyi gives no evidence that the Virginia was employed in the regular course of trade or passage, as a merchant vessel, but, on the contrary, fully implies what distinctly appears from other sources, that the vessel was employed exclusively by Señor Santa Anna, and was under his absolute control, in a military, or, at least, a political expedition of his own in violation of the laws of the United States.

It is not pretended that she had commercial ventures either at Vera Cruz or at Sisal, or elsewhere. The papers which were submitted in behalf of Señor Santa Anna further represent that Señor Santa Anna was visited by the captain of the port, the mayor of the city of Vera Cruz, and another gentleman whose name is not given, all of whom belonged to the Maximilian or so-called imperial party, which was then in possession of the castle of San Juan and of the city of Vera Cruz. Later she was visited by the commissary of Prince Maximilian, Don Domingo Bureau, and by General Taboada, the commanding general of Prince Maximilian's forces at Vera Cruz, and also the captain of the port, each with a military staff, who thereupon congratulated Señor Santa Anna upon his arrival and invited him to go to the city to take command of the same. Soon afterwards, General Perez Gomez, commander of the castle of San Juan d'Ulloa, went on board the Virginia and invited Señor Santa Anna to accompany him to that castle, and remain with him until proper arrangements could be made in the city for a grand reception. Señor Santa Anna

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accepted this invitation and repaired to the castle, where a military band played a march of welcome, and the whole garrison shouted "*Viva el General Santa Anna!*" Imposing popular demonstrations followed.

It is further stated that Señor Santa Anna remained in the castle a day and a half, during which time the city authorities were invited by the commanding general of Maximilian to visit the castle and dine with Señor Santa Anna. During the same time, a meeting was convened by the so-called imperial commissioner, in the palace of Vera Cruz, to consider the manner of the reception of Señor Santa Anna, which meeting finally came to the conclusion to proclaim Señor Santa Anna to be commander of the garrison of Vera Cruz. It was then arranged that Señor Santa Anna should be escorted to the city of Vera Cruz on the 7th of June. One hundred and one guns were to be fired from the castle, and workmen had already begun to build arches and decorate the city. In conformity with these arrangements, Señor Santa Anna issued and published a manifesto to the citizens of Vera Cruz, which in effect was an open defiance of the republican government of Mexico.

These dispositions thus made by the so-called imperialist insurgents in the city of Vera Cruz, in combination with the Señor Santa Anna, are understood to be what is meant by Mr. Naphegyi "as the expressed wishes of Señor Santa Anna's fellow-citizens with regard to the political affairs of their common country."

The United States consul at Vera Cruz gives his own account of the proceedings which took place at that port. In a despatch of the 8th of June, he reports that Señor Santa Anna came to Vera Cruz on the 3d of June, with his staff, on the Virginia, as passengers; that the staff consisted of his father-in-law, Colonel Vidal y Rivas, two Prussian officers, and an American interpreter; that Señor Santa Anna passed from the ship to the castle of San Juan d'Ulloa, then in possession of the imperialists, and remained there until the next day; that on the morning of the 5th Señor Santa Anna was taken from the castle of San Juan d'Ulloa and placed again on board the Virginia, after the force that was in the castle had been changed; that on the 7th of June the commanders of the British frigate Jason and the United States steamer Tacony went alongside and on board the Virginia, and took Señor Santa Anna from the Virginia and placed him on board the Tacony, then off Sacrificios, with orders that the captain of the Virginia should pass that island and receive Señor Santa Anna again on board the Virginia at that place; that the object of this proceeding on the part of the commander was to avoid a conflict among the armed forces in the city, it being understood that it was the intention of a part of the garrison to make an attempt to have Santa Anna landed there that night.

On the 12th of June Mr. Saulnier reported that the history of Santa Anna's reception was as follows: That he arrived on the 3d, on the steamship Virginia, from New York; that he landed the same day in the castle of San Juan d'Uloa, and remained there throughout the next day; that on the 5th, in the morning, he was sent back on board the Virginia. On the 6th the consul received an invitation from Santa Anna to visit him on board the Virginia, which invitation was accepted; that he entertained the consul for one hour, representing to him that at the solicitation of the President of the United States and the Secretary of State he had come there with an agreement that he would be supported in men and money, and recognized in preference to President Juarez. The consul reported this intervew to Commander Roe, of the United States ship Tacony. The consul adds that it was made known to him on the 7th of June, through a reliable source, that a serious effort would be made to have Santa Anna landed that night; that it was resolved by Commander Roe that Señor Santa Anna should be forthwith invited to pass the night on board the United States ship Tacony, which resolution was immediately acted upon.

The consul further reports that on the 8th of June the Virginia left the harbor, passed by Sacrificios, received Señor Santa Anna on board that ship, and proceeded immediately after to sea.

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The consul at the same time transmitted to this department an account of the proceedings of a council of war of the imperial insurgent military officers, which was held, upon the proposals of Señor Santa Anna, at Vera Cruz, on the 3d of June, which report of proceedings is certified by those officers themselves. In that meeting the so-called imperial commissary said that the idea put forth by General Santa Anna was to set up a republic in place of the empire; a republic distinct from, and in opposition to, the organized republic was implied. General Taboada, who commanded the forces of Maximilian at Vera Cruz, said that the arrival of Señor Santa Anna in that harbor, bringing with him the necessary means, foreign soldiers, and coming under American protection, as he (Señor Santa Anna) states, had aggravated the situation. The question to be propounded was, whether the garrison would adhere to General Santa Anna's proposals. Lieutenant Colonel Eduardo Soudriez said that as soon as Señor Santa Anna should land at the head of Americah soldiers, his command would be at an end. Don Jorge Murcia, lieutenant colonel, could not agree to Señor Santa Anna's bringing American soldiers there. Don Edwardo Figararo, collonel of cavalry, stated that he highly esteemed General Santa Anna, but rejected the idea that he should fight against the empire with soldiers brought from the United States. Don Santiago Cuevas said that Señor Santa Anna should not be allowed to enter the place, since he was backed by American soldiers and sustained by the American government; that Mexico had already felt one foreign intervention, and it should be spared any more. General Marin, who commanded the naval division, was totally disgusted with Señor Santa Anna, but he would rather fall into his hands than into those of demagogues, although he distrusted his good faith on account of the protection given him by the American government.

The consul states the conversation which he held with Señor Santa Anna as follows: That Señor Santa Anna entertained him with a long discourse as to his plans, and said that after interviews with President Johnson and Secretary Seward, at their solicitation, he had come to Vera Cruz; that they had offered him men and money to sustain him; that Maximilian had offered to deliver the situation of the country to him, (Santa Anna,) &c., &c.

The consul further stated that he had had an interview with the so-called imperial commissary. He had declared that Señor Santa Anna should not land at Vera Cruz.

Commander Roe gives this account of the transaction: "On the 20th of May the United States and English consuls came to Sacrificios and reported to the English captain and myself that the imperial commissary at Vera Cruz had submitted certain terms for the surrender of that place to General Benavides, commanding the liberal forces, and that he (the commissary) had requested the two consuls to proceed to the liberal camp to propose them. He moreover requested that the British captain and myself should accompany them. On that day we accordingly visited General Benavides at his headquarters, and the propositions of the imperial commissary were in substance accepted. This was after the reception of the news of the fall of Queretaro and the capture of Maximilian. A truce of some some three days was agreed upon, and hostilities suspended. At the end of this period, however, the (so-called) imperial commissary failed to meet General Benavides, and hostilities were once more resumed. * * * Affairs remained then in this position until the 1st of June, when, after repeated *solicitations* on the part of the Maximilian commissary to the United States and British consuls, those gentlemen again visited him. This time he declared that he would accept the propositions of General Benavides which the consuls had brought back from him in writing. They were requested to visit General Benavides to notify him of the acceptance of his proffered terms, and of the desire of the imperialist to surrender Vera Cruz, its castle and fortifications. * * The consuls left the English ship of war Jason on the morning of the 2d of June,

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with full instructions to arrange for surrender." Well-grounded fears were then entertained of a general insurrection in the city and of scenes of horror to follow it. The consuls returned from General Benavides at two o'clock in the afternoon of the second of June with a complete ratification of the original terms proposed by the imperialist commissary. The two consuls proceeded at once to Vera Cruz, there to report their success to the commissary and await developments. General Benavides suspended firing from his batteries. The so-called imperial commissary acceded at once to those terms, saying that he would require a little time to win over his officers to his wishes. It was at this juncture that the steamship Virginia arrived bringing Señor Santa Anna. The imperial commissary informed the consuls that Santa Anna declared that he brought letters from President Johnson and the United States government, authorizing him to assume the charge of affairs in Mexico; that he also stated that a squadron of ships was ordered to sustain him, and troops were also on the way to Vera Cruz. A letter was received by Commander Roe from the shore, which stated that a revolutionary conflict was on the eve of breaking out in favor of and against Señor Santa Anna, who represented himself as an emissary of the United States government, and appointed to supersede Juarez and all others, and take charge as the chief in behalf of the United States.

It was under these circumstances and upon the application of the United States consul that Commander Roe required Señor Santa Anna, with his interpreter and body servant, to go on board the Tacony for the night, and he was the next day put on board the Virginia, and so required to leave Vera Cruz.

Mr. Naphegyi denies that Señor Santa Anna pretended to have had the specific authority of the President of the United States for his proceedings at Vera Cruz. Commander Roe in his report states that Señor Santa Anna, when on board the Tacony, denied that he had publicly declared that he came in the name of President Johnson and the United States. This denial of course cannot be expected to outweigh the distinct statements of the United States consul, the explanation of the policy of Señor Santa Anna given in the imperialist council of war at Vera Cruz, and other corroborating evidence.

Among certain papers which were found in the possession of Señor Santa Anna and his secretary, is the report of a conversation which occurred between that person and Commander Roe on board of the Virginia. In this report, made by Señor Santa Anna's interpreter under his own direction, it appears that his denial was in these words: "It is not true that I said I was sent, for the government at Washington could not employ me, nor would I obey the commands of a government not my own. I heard that the American consul prevaricated for the purpose of preventing me from landing, and I thought proper to satisfy him, and dispose him to a neutrality he ought to have observed. For that purpose I said to him, substantially, that my mission was one of entire peace, and that his President was not ignorant of my journey or of my intentions."

In the opinion of the President, Commander Roe has truly stated the character of the transaction which occurred in Vera Cruz in these words:

"The attitude, then, of Santa Anna was this: He was on board of an American ship under the flag of the United States, in a city besieged by the government of Mexico, declaring and fomenting the civil war against that government, with which the United States are in friendly relations, under an assumed authority from the United States; and while he claimed to be under the protection and shield of their flag, he prevented the act of the surrender of Vera Cruz, after the terms of that surrender had been agreed to and accepted by both parties; and this under the declaration that he was acting under the authority of the United States." In this view of the subject, this department not only does not disallow nor censure, but it approves the proceedings of the United States consul, and of Commander Roe, at Vera Cruz.

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I proceed to consider the transactions which occurred at Sisal. While Mr. Naphegyi gives no reason why the Virginia stopped at Sisal, he leaves us to infer that she was in fact returning directly to New York. The suggestion that the United States should institute proceedings against Mexico to procure the restitution of Señor Santa Anna to his liberty within the jurisdiction of the United States is based upon the following assumptions, namely: that Commander Roe had, in behalf of the government of the United States, captured Señor Santa Anna, at Vera Cruz, and placed him on board the Virginia, and held him there in custody, as a prisoner of war, or at least under duress, as an unwilling passenger; that the Virginia was thus constructively put into commission as a public vessel of the United States navy, and remained so while on her voyage to, and after her arrival at, the port of Sisal, in Mexico; and that the vessel was violently boarded off the port of Sisal, when at a distance of more than one marine league from the coast of Mexico—that is to say, upon the high seas—and that her detention and the arrest of Señor Santa Anna were therefore acts of piracy. It is contended by Mr. Naphegyi that, at least, the Virginia was a merchant vessel, lawfully sailing and remaining at or near Sisal, under the flag of the United States; that Señor Santa Anna, being a passenger, was forcibly and violently taken from the Virginia, and conveyed away by agents of the Mexican government.

There is not the least ground for the pretence that the Virginia was in naval commission, or that Señor Santa Anna was a prisoner of war to the United States at Sisal. The new allegation that the Virginia lay outside of Mexican jurisdiction while at Sisal, will be made the subject of careful inquiry.

Reserving that question for the present, I proceed to state the transaction at Sisal, as it appears from explanatory documents. As soon as the Virginia was left free from the convoy of the Tacony, by Señor Santa Anna's choice, and under his own direction, she made her way, not to New York, but to the port of Sisal. Arriving there, coming to anchor on the 11th of June, Señor Santa Anna despatched from the steamer Virginia to General Martin Peraza, governor of Yucatan, at Merida, the capital of that State, a letter by the hands of a Mexican colonel, Hilario Mendez, in which letter Señor Santa Anna declared that Colonel Mendez knew what had happened to him in front of Vera Cruz, and would tell the governor all about it. Together with the same letter he transmitted written reports of those proceedings, containing an indignant complaint against Commander Roe. Señor Santa Anna proceeded to say, in the same letter: "If I do not get back to Vera Cruz soon in a war steamer or merchant vessel, I shall remain some time in Havana; and whether I am in that city or Vera Cruz, I shall be at your service."

With this letter Señor Santa Anna also transmitted a copy of a revolutionary address to the people of the State of Yucatan, which, on his way to Vera Cruz, he had sent ashore to be circulated there, and he now invited the governor to give publicity to that paper. This proclamation, like the one issued at Vera Cruz, was hostile to, and subversive of, the republican government of Mexico. On the 11th of June, Señor Vidal, the secretary of Señor Santa Anna, wrote, on board of the Virginia, "in front of Sisal," a letter to General Taboada, before named, of the Maximilian or so-called imperial army, at Vera Cruz. In this letter, Senor Vidal said that the passengers who embarked in that vessel (which passengers are supposed to be disloyal Mexicans) had expressed to Senor Santa Ana the general dissatisfaction of the inhabitants of Vera Cruz, then in the possession of the Maximilian party, and that he himself, on quitting the wharf there, was grieved to see tears shed by old soldiers, assumed to be Maximilian's soldiers, annoyed at the flagrant disrespect shown to Senor Santa Ana. That the garrison, as well as the inhabitants of that city, must be in despair, easy to understand to those who had witnessed the spontaneous manifestation of enthusiasm and sympathy. Senor Vidal proceeded in the letter to

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say that, while he reflected upon the decided intention of General Taboada and that of other friends whom Senor Santa Anna had in Vera Cruz, and while he reflected that the affairs of Mexico could have no other favorable solution than that which Senor Santa Anna had proposed to give, by means of himself as their leader, with the influence of his name and his gift of command, he (Senor Vidal) was persuaded to write to General Taboada to ask him to tell Senor Santa Anna frankly, without the loss of a moment, if the situation at Vera Cruz could be commanded till Santa Anna's return; and if that could be done, whether Senor Santa Anna might expect better success in the realization of his undertaking. Senor Vidal proceeded to say that he thought it indispensable to remind General Taboada and his party that they ought not to permit the Maximilian military forces to be delivered up to their enemies, (meaning the republican besieging army,) bearing in mind that those enemies do not know how to pardon nor to keep their promises; and that the besieged forces would surely be sacrificed as soon as they should be disarmed. That the safest way, in fact the only way, was that which had been pointed out to General Taboada by Senor Santa Anna. That it was Senor Santa Anna's intention to return to Vera Cruz without delay in a war steamer or merchant steamer. He advised General Taboada to let this notice serve as a guide to him in the management of affairs. Senor Vidal proceeded further to ask why Senor Santa Anna was not assisted by General Taboada on the night of the 8th and 9th, as he expected to have been.

Señor Vidal wrote on the same 11th of June, on board the Virginia, at Sisal, a letter which was addressed to Charles Rayman, Spanish consul in Vera Cruz, but which by its tenor seems to be intended for General Taboada. In this letter Señor Vidal stated that it was the intention of Senor Santa Anna to proceed from Sisal to Havana, to see what kind of aid, direct or moral, the captain general of Cuba would furnish him. With this letter Senor Vidal transmitted a card to be delivered to General Manzano, the captain general at Havana. Senor Vidal proceeded to say that the chief object of his present writing was to ask the Spanish consul to deliver an enclosed card to General Manzano, and request him to ascertain the dispositions of those who were capable of aiding him. If they were ready and could do any good, then Senor Santa Anna would soon return to the front of Vera Cruz. Senor Vidal went on to say that all must have known that Senor Santa Anna's arrival at Vera Cruz was not only opportune and efficacious, but necessary and was indispensable. He proceeded to say: "I may obtain permission for Senor Santa Anna to remain in Cuba for a month." If not, he would be obliged to go back to St. Thomas. At all events, the Spanish consul was to understand, there, that Senor Santa Anna was ready to save Vera Cruz, and raise the siege by gaining Benavides over to his party, "and thus prevent much bloodshed in the city, and then go to the aid of the brave men (meaning the Maximilian army) who were struggling for their lives in the capital of Mexico. Alas for Vera Cruz, woe to Mexico, if unfortunately Senor Santa Anna should not be understood." Senor Vidal went on to say: "Our present fears are that the vessel we are expecting from the United States to Vera Cruz, not finding Senor Santa Anna's party there, might fall into the hands of some United States agents, and suffer all the indignities which that nation, the United States, is heaping upon Senor Santa Anna and his party." That that party were taking all precautions at Sisal and were cruising about; but as there had been two stormy nights, the vessels might have passed each other without discovery. That in such an event, if the expected vessel should have arrived, and the troops on board of it should wish to land, then the Spanish consul would put the Irish battalion in the castle of San Juan, and the riflemen in the city, till the return of Senor Santa Anna, when he could march them into the country to shun the maladies peculiar to the Mexican coast. Senor Vidal went on to say that in the failure of that ex-

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pedition they would not only lose the cost of the expected vessel, which was over $200,000, but the opportunity of aid, without reckoning the difficulties that they had already had to overcome in organizing that expedition. Senor Vidal went on to say that on the nights of the 8th and 9th, the Virginia was for more than two hours behind the castle of San Juan, from midnight till after two o'clock, with the lights and signals which had been agreed upon the Galleguilla shoals. That the noise made by blowing off steam and other movements must have been heard at the castle; that the sea was calm and the weather cloudy. "Why, then," he asked, "did you not come to the place agreed on? We did everything we could. After two o'clock we put to sea."

He closed with saying that it (the letter) was not to be suffered to go out of the correspondent's possession, though his name was not put upon it for fear of risking the loss of his situation.

On the 12th of June, being the same day on which it is alleged by Mr. Naphegyi that the Virginia was boarded and Senor Santa Anna forcibly removed from that vessel at Sisal, Senor Santa Anna wrote a letter on board of the Virginia, which he addressed to General Mathias Peraza, governor of the State of Yucatan, at Merida. In this second letter to General Peraza, Senor Santa Anna referred to his first letter forwarded by Colonel Mendez, and presumed that it was then in the hands of his correspondent, General Peraza, together with the documents it contained. Senor Santa Anna then proceeded to say: "I was awaiting your answer, when Colonel Medina, the military commander at this port, presented himself to me on board, and informed me that you invited me to land. I immediately began to get ready to accept your invitation, and commenced by shaving myself. The captain of the vessel (Captain Deaken) informed me that I could not land, as his orders from the commander of the American war steamer (Commander Roe) were, that I might land on neutral ground, but could have no pretext to set foot on Mexican territory. This caused an altercation between Colonel Medina and the captain of the Virginia. * * Finally, the captain yielded, and I was allowed to disembark, not, however, without protest," (by Captain Deaken.)

Senor Santa Anna proceeds in his letter to General Peraza: "Now, I am at your disposal, and I hope I shall soon see you, as this commander" (meaning Medina) "has promised me I could. I wish my good intentions may give a happy result; and I do not think Mr. Salazar Illarequi will be so timid as to reject my generous mediation for the complete establishment of peace in this State of Yucatan. But if he persists in an obstinate resistance, an old veteran places himself under your orders to be sent wherever you think he can be of the greatest service to the nation."

There seems no reason to question the authenticity of these letters. If authentic, they prove that at the port of Sisal, whether exactly within the Mexican jurisdiction or just beyond it, General Santa Anna was in command of the same military armed expedition against the republic of Mexico, which he had prepared within and conducted from the shores of the United States to Vera Cruz, in violation of their neutrality laws, and in derogation of the relations of amity and friendship, and also—so far as the sphere of moral influences is concerned—within the relations of allies. They prove also that although Captain Deaken, perhaps in the interest of New York creditors, protested, Senor Santa Anna voluntarily disembarked at Sisal, and went into the camp of the defenders of the republic of Mexico. During a considerable part of the period in which Mexico has been the theatre of civil war, armed military and naval force has been maintained by the United States on the Rio Grande and in the waters around the ports of Mexico, among other purposes, to prevent and defeat invasions of that republic by any military and naval expeditions which might be set on foot in the United States. We are officially informed that Senor Santa Anna, after having landed at Sisal in conformity

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with his engagements, was sent forward by the military commandant at Sisal to the care of General Peraza, the governor of Yucatan, and is detained in custody, with a view to the safety of the republic of Mexico.

Upon this review of the facts, it seems proper that the government should wait for further and more definite information before entering upon communications in relation to the complaint of Mr. Naphegyi with the government of Mexico. That nation seems at last to have triumphed over all its internal and foreign enemies, and to have reached a crisis when, if left alone, it may be expected to restore tranquillity, and to reorganize itself upon permanent foundations of union, freedom, and republican government. Only some great national injury, wrong, or offence would justify this government in suddenly assuming a hostile or even an unfriendly attitude toward the republic of Mexico.

WILLIAM H. SEWARD.

No. 3.

CORRESPONDENCE OF MR. ROMERO ON RECENT EVENTS IN MEXICO.

Mr. Romero to Mr. Seward.

WASHINGTON, *January* 5, 1867.

MY DEAR Mr. SEWARD: Some time ago you desired me to inform you when the city of Zacatecas should be occupied by the national forces of the republic. It gives me pleasure to-day to be enabled to comply with your request, the information having been communicated to me by President Juarez in a letter dated Chihuahua, December 9, 1866, received yesterday, in which he writes as follows:

"On the 29th of November, Governor Don Miguel Auza took possession of the city of Zacatecas; I received last evening his official report of the fact."

I am, very truly, your obedient servant,

M. ROMERO.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*,
Washington, D. C.

Mr. Romero to Mr. Seward.

[Translation.]

MEXICAN LEGATION TO THE UNITED STATES OF AMERICA,
Washington, January 26, 1867.

Mr. SECRETARY: I have the honor to send herewith to you, for the information of the government of the United States, various documents, which show what is the latest aspect which French intervention presents in Mexico, and the so-called empire of the ex-Archduke Maximilian. Among them I permit myself to call your attention to the letter dated at the city of Mexico the 8th of December last, and continued to the 26th of the same month, because it was written by a well-informed person. I hope the narative it contains may be read with interest by the government of the United States.

I avail of this opportunity, Mr. Secretary, to renew to you the assurances of my most distinguished consideration.

M. ROMERO.

Hon. W. H. SEWARD, *&c., &c., &c.*

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[Translation.]

Index of documents which the Mexican legation sends, with note of this date, to the Department of State of the United States.

No.	Date.	Contents.
	1866.	
1	Dec. 8	Letter written at the city of Mexico, relating what occurred between Maximilian and his so-called ministers and councillors on the 26th November and following days.
2	Dec. 8	Letter of Maximilian to D. T. Lares, explaining to him the reasons why he convoked his so-called congress to Orizaba.
3	Dec. 10	Issue of a circular from Lares, called minister of foreign relations of Maximilian, showing that the latter reckoned upon the French army continuing to sustain him.
4	Dec. 10	Extract from La Patria, ministerial newspaper of Maximilian, announcing that General Bazaine had given orders to deliver material of war to the troops Marquez was organizing in defence of that usurper.
5	Dec. 19	Circular of General Bazaine, inviting the French soldiers fighting under the banners of Maximilian to return to their country with the expeditionary corps.
6	Dec. 19	Publications of French agents, showing the disagreement which exists between them and the emperor, (so called,) in relation to the custom-house at Vera Cruz, which the French held in possession.
	1867.	
7	Jan. 8	Notice by the French legation in Mexico, inviting resident French who wish to return to their country to embark with the expeditionary corps.

IGNO. MARISCAL, *Secretary.*

WASHINGTON, *January* 26, 1867.

No. 1.

[Translation.]

MEXICO, *December* 8, 1866.

MY VERY DEAR FRIEND:

* * * * * *

All intrigues have been useless; all the blood shed has been shed in vain; falsehood, perfidy, baseness, and flatteries, and threats, and the perspective of a military future capable of seducing him who in heart loves Mexico, all, all have been used with ability to upset the man who grasps the standard of independence, and the man remains at his post.

Three months ago the idea was to erase the name of Juarez from the flag of the independents, and to substitute therefor that of Gonzales Ortega. To this end, Bazaine called on several liberals, giving them carte blanche to conspire against the empire on condition of abandoning Juarez. All was useless; there are no Ortegaists; if there had been they were ashamed; but the capture of the general upset this last illusion. It is necessary to regard Juarez as re-established in the capital. If a treaty of peace has to be made between Mexico and France that treaty must bear the signature of Juarez. This is what the French have come to understand after four years of war, and is it not very natural they should trip and hesitate rather than fall? But all this that I am writing, you know, if not better, at least as well as I do. I am going to give you some news that by few channels could reach your knowledge. I will speak to you of the conferences at Orizaba between Maximilian and his council of state. Nothing has been published beyond the resolution of the grandduke to return to the capital.

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On Saturday, 24th of last month, the councillors reached Orizaba to the number of sixteen, notwithstanding the counsel is composed of thirty and more members, and on Monday, 26th, they had their first session. Maximilian did not present himself to preside over it, as was to be expected. M. Lares, the soul of the imperial government, had authority to do so. He began by reading a letter from the archduke addressed to the council, which in substance said as follows: That he had an intimate conviction that he ought to retire from the country, returning to it through the medium of that body, the only one existing, all its liberty to frame in the manner it may judge most convenient its own constitution; that such conviction rested on reasons more or less incontestable, and which, in fact, made the empire an impossibility. Among these reasonings and facts you have here the principal ones. That the French agents had intimated that France had an understanding with the United States to end the question of Mexico on the basis of a republican government; that the condition of poverty in which the public chests were found was such that it was impossible to meet its most pressing and urgent obligations without recourse to violent exactions; that for the same reason there were no elements for raising an army sufficient to make head against the dissidents, who not only occupy important cities at a distance, but growing in boldness daily, come already to a very short distance from the capital; and, finally, that his personal misfortune, that is to say, the sickness of his wife, filling his heart with bitter grief, had completed the series of calamities. The letter ends by announcing his resolution to abdicate in the midst of the council of state.

The letter having been read, Lares thought proper to make some explanations, and said that the resolution of Maximilian was not definitive; that although French agents had, in effect, declared what the letter expressed, they had not done so officially, and added that he was authorized to receive General Castelnau, and would give assurance that he had no other mission than to ratify in words that which at various times lately Napoleon had written to Maximilian, to wit: That the present situation of Europe prevented him from continuing to lend him his aid in any way, and obliged him to withdraw his troops after a short time, which General Castelnau was authorized to fix. He said, lastly, that both Castelnau and Bazaine had offered him both artillery, arms, and ammunition in considerable quantity on condition that Maximilian would return to Mexico and continue at the head of the government.

This declaration surprised all, because it was generally believed that the French had refused to deliver armament.

A committee of the council was appointed, which on the following day should report their opinion. Fonseca, Vidaurri, and another whose name I do not recall, composed that committee. The report was presented and concluded, as might be expected, by requesting the archduke to return to Mexico and to continue to govern the empire.

Five of the council voted for the report, and, as I understand, the three ministers, who were present; against it, eleven councillors, of whom one, Cortez Esparza, did so absolutely; and ten, among them, Silicio, Victor Perez, Manuel Cordero, Linares, and Luiz Mendez, explained their vote by saying in substance that Maximilian ought, before abdicating, to guarantee, in I know not what manner, the interests created by the empire.

Larez, the interpreter on this occasion of the council, and of Maximilian, charged himself with giving account of this and of the result of the deliberations, and on the next day returned to preside over the sitting, and read a second letter from the archduke.

This new letter said that Maximilian, before taking a definitive resolution, and supposing the vote of his councillors, wished them to solve for him that day the following questions:

1. If the government could count upon such resources as to be able to face the situation without recourse to violence and arbitrary action?

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2. If it was possible to arm a numerous army without recourse to levies to take from the dissidents the strong posts they had in possession, cause them to disappear, aid to the imperial rule through all the extent of the country?

3. If it was possible to enter upon a negotiation with the United States which should result in the recognition of the empire by that power?

The letter spoke, also, of national representation and of submitting to its vote various questions, upon the understanding, I suppose, that in the bosom of that Congress the two political parties would be represented.

The council declared it was not possible to resolve such questions that day, as was asked, because it had not necessary antecedents on each of them; but added that, in reasonable time, in another place, that is, in Mexico, and laying before it the divers intents and projects of finance, with all the explanations and suitable observations, by doing the same with all connected with the brands of war, and becoming informed, also, of all done to this time by the imperial government, directly or indirectly, to obtain the recognition of the United States, would be possible to express the opinions asked for.

It was to be believed, and all the world believed, that Maximilian had wished to present to his steadfast partisans, represented by the ministers and some of the councillors, all the difficulties of the situation, of such volume they had themselves acknowledged them and declared them insuperable. But Mr. Lares, who continued in his office of interpreter, to the general amazement, announced next day that, assuming the opinion of the council, and whatever was to be assumed, Maximilian had resolved definitely to return to Mexico and put himself at the head of the government. This resolution was communicated by telegraph to all the prefects, ordering them to celebrate the occasion with ringing of bells, music, and fireworks, a notice which was faithfully carried out. After that the "Patria" newspaper, which the government pays, sung the victory and announced to us that the time for pardon and magnanimity had gone by, very clearly expressed in the law of the 3d of October, and that thenceforth the empire, sustained by Miramon, Marquez, and Mejia, would regulate all affairs at the sword's point. But leaving this on one side, although those that we see obliged to remain here cannot forget it, and turning to the matter of the conferences at Orizaba, I will say to you that their results would be truly matter for joking if they had not happened to retard a solution which the entire country, without distinction of parties, (and even foreigners resident in it), has awaited with feverish anxiety during the last forty days.

The conferences of Orizaba and their results would be droll, I have said, and, in fact, are so; at least I have fancied hearing the conversation of two deaf men, who by their condition can't hear each other, and in consequence cannot understand each other. As the details I communicate to you are authentic, it cannot be doubted that the council disapproved the opinion that advised that Maximilian should remain; that is to say, that the council wished he would abdicate; and to this declaration the archduke replied that, regarding it as the wish of his council, he would remain.

You should notice the manifesto of the archduke to the nation. There is not one who gives it any importance, so far as to the purpose it ostensibly has, because there is no one who believes that the independents will lay down their arms to decide the question at the electoral urns. But yes; even his most decided partisans reprove such a manifesto, because they see that the sovereign places his title in doubt. Here it works with good result, because no liberal allows himself to be deceived.

* * * * * *

We are at the 20th of December, and as the New York steamer has not yet arrived, there has been no opportunity to send you this. It contains news which will already be forgotten by you; the fault, as you perceive, is not mine.

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You know that when Bazaine married, Maximilian, who was sponsor, presented to the bride the old house of Mrs. Rutwellthen. In the deed of donation is a clause by which the archduke engaged to give 100,000 francs for such house, if Bazaine, at the time of leaving Mexico, should so desire. That he does so desire is unquestionable, but, you understand, the house being bought with public funds, the French army withdrawn, and the constitutional government re-established, the donation is a nullity. The interest is what now worries the imperialists. If you contribute, they say, to Bazaine to do away our prestige, the government will lack means to meet a personal promise with you.

Here you have one of the explanations given of the suspicious conduct of the French. I insist on it, the mischief comes chiefly from Paris.

Castelnau and Dano were at Puebla, where the archduke was. It was said the principal object was to have him abdicate, and it was even given out the abdication was made. I doubted this news, and believed they were treating of the convention of 30th of July, which Maximilian don't care to ratify. For this belief I rest upon the fact that the situation has lately grown more serious, because, by order of Maximilian, they are collecting in Mexico all the duties paid at Vera Cruz to the French, in virtue of such agreement. That is to say, that Maximilian ignores the treaty, as Juarez would do if he were now in Mexico.

Zacatecas was occupied on the 29th of last month, and Aguas Calientes a few days after; day before yesterday came news of the occupation of Guadalaxara, which General Gutierrez was to have defended until Miramon got there. Daily is announced the departure of Miramon, and daily is the news contradicted that Bazaine will give to the imperialists arms and ammunition in considerable quantity. Taking into account the interests which are connected with Bazaine, such news may end in a fact.

A levy on a large scale is what to-day fills the world with annoyance. The curiosity is, that the imperial government has thrown off the mask and officially authorizes this, as you will see by a circular from the department of government, published these four days.

Yours, affectionately,

———.

WASHINGTON, *January* 26, 1867.

Correct.

IGNO. MARISCAL.

No. 2.

The *France* publishes the following letter from Maximilian to M. Lares, president of the council of ministers:

"MY DEAR SIR: The gravity of the present condition of our country has led us to call to our aid the councillors of the Crown, in order that, by their clear and prudent judgment, we may arrive by legal means at a solution of the existing difficulties. A weighty duty is now imposed upon us, but we have a thorough conviction that the welfare of the country demands its accomplishment. After reflection free from all party prejudice and passion, after a long and conscientious examination of the position, we have arrived at the conclusion that it might be our duty to restore to the Mexican nation the power which it had confided in us. The following are the reasons which confirm us in this opinion: first, the civil war still continues—with grief we state the fact; it stains the devastated territories with the blood of thousands of our countrymen, and is every day assuming vaster proportions; secondly, the hostility of the

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United States toward the monarchical principle is daily becoming more marked; thirdly, our allies have declared it impossible for them, from political reasons, to continue their support, and it has even lately come to our knowledge that there have been negotiations between the French and the United States government with the object of coming to an agreement as to the means of putting an end to the civil war which has been so long ravaging our country. Considering the opinion of the great majority of the American people, it would not be possible, they say, to attain that end, except by founding, by the aid of these two powers, a new government of a republican form. Although it has pleased Providence to destroy the happiness of our domestic hearth, and although our courage and strength have consequently been unduly tried, we should not for one moment hesitate to make any sacrifices for the welfare of the nation if we had not well-founded reasons for believing that our person would prove an obstacle to the pacification of the country. These are the motives for calling round us the ministers—who have already given us so many proofs of their adhesion and fidelity—with the object of finding a solution for existing difficulties.

"MAXIMILIAN."

No. 3.

[Circular.—Translation.]

DEPARTMENT OF FOREIGN AFFAIRS AND MARINE,
Mexico, December 10, 1866.

* * * * * *

His Majesty has received at this time the most explicit assurances from his excellency Marshal Bazaine, in conformity with the orders of his sovereign, that he is to aid in consolidating order and peace by furthering the measures of his Majesty's government during the continuance of the French troops in the national territory. All which I have the honor to communicate to your excellency by order of our august sovereign, that you may bring it to the knowledge of the government near which you are accredited, authorizing him to read this note to the minister for foreign affairs, and to leave copy with him if he request it.

The Under Secretary for Foreign Affairs in charge of the office,
JUAN NEPONUCEMO DE PEREDA.

ENVOY EXTAORDINARY AND MINISTER PLENIPOTENTIARY
of the Empire at ——— ———.

No. 4.

[Translation.]

The Patria, semi-official paper published at the capital of the empire, says:

"By express order of his excellency General Bazaine, communicated to all the generals of the expeditionary army, all the Mexican troops and Austrian and Belgian legions are placed under the orders of his excellency General Marquez to dispose of them as may suit him for the military operations confided to him as chief of the army of the orient.

"This is already a fact, and the Mexican general is hurrying to organize and opportunely increase his force and commence operations.

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"All the Mexican material of war which was in the power of the expeditionary army has been delivered, by express order from Marshal Bazaine, to the imperial government, as well that in the city as what is inland; this is also a fact. It proves, as does the former, the good understanding there is between the intervention and the empire, which we have ourselves averred at various times, differing in that from the assurances which have been given to the public."

No. 5.

Marshal Bazaine issued the following circular:

HEADQUARTERS EXPEDITIONARY CORPS OF MEXICO.

The marshal commanding in chief has received a telegram from Paris, dated December 13, expressing the intention of the French government to have returned to France, not only the foreign legion, but all the soldiers of French nationality who were formerly authorized to enrol themselves in the service of the Mexican government, and who are actually serving in the general army corps of the Mexican army. However, if any of these soldiers having knowledge of this circular desire to remain in the service of Mexico, they are authorized to do so, and remain in the corps to which they actually belong. As to the French, whatever is their rank in the Mexican army, officers, non-commissioned officers, or privates, those manifesting a desire to discontinue serving in Mexico, but who are yet unattached to the French corps, will be transferred into the foreign legion, where they will have their former rank; as to others, they will be returned to their country at the expense of the French government. Consequently there will be made in each Mexican corps a nominal report of all Frenchmen serving in said corps, which report will be forwarded to the marshal commanding after each soldier has written opposite his name the action by him voluntarily taken, if he is determined or not to remain in the Mexican service. Soldiers taking the first determination will join themselves to the nearest French detachment on the first secure occasion which will offer itself.

BAZAINE, *Marshal Commanding.*

Copies of this circular were sent to General Mejia on December 19, to be enforced immediately.

No. 6.

[Translation—Communicated.]

The carrying into execution of the treaty of July 20 at the time fixed by his Majesty the Emperor Napoleon, (1st November,) according to the right conferred on him, and the taking possession of the custom-house of Vera Cruz by French agents, have called out on the part of the Mexican authorities an opposition and protests which have, with good cause, disturbed trade, by proving that the convention was made applicable without the consent of the Mexican government. The official publication of the convention which had been kept back till now, in hope of an understanding with this government, will suffice to edify us without further explanation on the rights of the French government, and the legality of the acts of its agents.

The French government, in taking control of the custom-house at Vera Cruz, retained all the employés appointed by the Mexican government. The collector and thirty agents withdrew, refusing their assent to the execution of this

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convention, and protesting against the deductions made in anticipation of duties to come in. The French authority would not allow to be idle in their hands the delegations; they made claim and had commission to recover, and appointed a French agent collector in conformity with the provisions of article three—the measures taken were necessary to secure the collection duty of the duties payable at the Vera Cruz custom-house; these duties, without exception, and with reserve only of previous delegations which had been admitted and duly paid, are allotted for payment of the delegation admitted for the benefit of France. This note is accompanied by the text of the convention, and the following notice:

"Merchants who shall have paid duties due at the Vera Cruz custom-house, conformably to the regulations of the empire, are permitted to withdraw their goods from the Mexican warehouse and to claim, if there is cause, the concurrence of the French authority.

"A. DE MAINTENANT,
"*Inspector General of Finances, Chief of the Financial Committee.*"

MEXICO AND THE FRENCH.

A letter from the city of Mexico says: "Everything at the capital portends an early evacuation by the French, and it is even said that Maximilian will be off at the same time; that he is now preparing himself for such a step, and that the putting off of the national congress—for which an assembly of notables is now to be substituted—is for the purpose of abdicating. His minister of the treasury, Campos, has wished to give up his place, being unable to cope with the difficulties that surround him."

The French legation in the capital have issued to the French residents the following circular:

"LEGATION OF FRANCE IN MEXICO,
"*January* 8, 1867.

"The Emperor Napoleon has determined that the French residents, who wish to leave Mexico, shall be re-embarked at the same time as the expeditionary corps.

"Persons who intend to make use of this favor will be pleased to make it known as soon as possible at the office of the legation."

MR. COBDEN ON MEXICO.

The following interesting letter, giving the views of the late Richard Cobden on the French expedition to Mexico, is published in late London papers. It was written in May, 1864, more than a year ago, to a French gentleman in Switzerland:

MY DEAR ———: In your last letter you speak unfavorably of the prospects of the northern party in America. You do not know that country. I travelled through the United States in 1835, and again in 1859, and have been a very careful student of all that has been passing there. I ought to know that country as well as anybody. Nothing, in my mind, is more certain in the future than that the North will destroy slavery, ruin the slave owners, and hold possession of the South. The mistake that people fall into in Europe, when they expect the success of the South, is that they lose sight of the inherent weakness of a slave-owning community, owing to the want of that mechanical de-

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velopment which constitutes the great power of modern society, as compared with former ages. Georgia, or Mississippi, or Alabama, are not modern communities in their organization and resources. They are a succession of plantations on which slaves do all the work, and containing within themselves all the different occupations, such as carpenters, smiths, and coopers, and which form distinct trades in free civilized States. In fact, Georgia and Mississippi are in the same state as western Europe was in the fourteenth century. Georgia and Mississippi, each nearly as large as England, contain each only a half million of inhabitants, being less populous than England was in the time of the Saxons. Those whites are surrounded by nearly an equal number of slaves, who are ready to run away from their masters whenever federal armies approach. Thus, added to the want of mechanical resources and the absence of accumulated wealth and population in towns, the South sees the negro, on whom it depends for the rude cultivation of the soil, deserting its plantations to enlist in the ranks of the invading army. It is true that the southern whites fight well. They are a proud, haughty community, who have a contempt for northern industry and for northern men, just as all aristocrats have despised working men. They are more reckless of life, more accustomed to the use of arms, and have that southern dash and fire which make them almost irresistible for a time. But nothing can compensate for the disadvantages under which they labor. Nothing can make a community, living like the feudal community of the thirteenth century, a match for the New England population of the nineteenth century. The North will ruin the South, not by any one or half dozen decisive battles, but by its persistence and by the irresistible weight of its resources. And I should not be surprised to see the South collapse very suddenly; for, having no social forces at its back, when once it is fairly beaten in the field it has nothing to fall back upon. If the North should realize my expectations, it will present itself before the Old World in a new and most formidable attitude, for it will have proved itself as great in war as in peace. It is the only country in the world which, while it is a first-class naval power, (for its mercantile tonnage is equal to our own,) can keep 700,000 men in the field. Has your emperor thought of all this in connection with his Mexican expedition? I confess I saw with amazement, as well as regret, the course which he took in sending an army to interfere in the internal affairs of that wretched country. It reminded me, in its impolicy, of the expedition of the first Napoleon from Bayonne into Spain. No human being can restore Mexico to order or confer on it the blessings of civilized progress. It requires the hand of God himself to effect such a change in that degraded population of half-casts. But does the Emperor know how deeply the public sentiment of the United States is outraged and humiliated by this attempt of a foreign power to set up an empire at their door without consultation with them? How would you Frenchmen like to see the Yankees sending an army to establish a republican Belgium without consulting you? Seeing the American newspapers regularly, I gather from them that the resentment against you for the Mexican intervention is ready to burst forth the moment the rebellion is in a sure way of defeat. The Americans will have some serious controversies with England, but they are of a nature to keep and employ the ingenuity of diplomatists. But I look for a peremptory demand from Washington for explanations from the Tuileries, which will lead to war or humiliation. I sincerely wish the Emperor would withdraw every French soldier immediately.

* * * * * *

RICHARD COBDEN.

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[From the New York Daily Times, November 16, 1865.]

LIEUTENANT GENERAL GRANT—HE VISITS THE UNION LEAGUE CLUB—SPEECHES AND FESTIVITIES.

During yesterday General Grant's movements were varied and extensive.

* * * * * *

As was announced in yesterday's Times, Lieutenant General Grant and wife visited the opera, accompanied by Majors General Meade, Ingalls and D'Trobriand, and Admiral Ringgold. The party occupied a conspicuous position in the auditorium, and attracted great attention. The house was filled to repletion.

After listening to the opera (Fra Diavalo,) the party of generals drove round to the Union League Club rooms, in Seventeenth street, where the members had gathered in full force to receive them.

Precisely at 10.30 p. m, the general was ushered into the main saloon, which was rapidly filled with the gentlemen of the club and their friends. As soon as order was partially restored, James W. Beekman, esq., one of the vice-presidents of the club, welcomed the lieutenant general in the following

ADDRESS:

LIEUTENANT GENERAL GRANT: We bid you welcome here not for the first time. You have honored us, as your friends, with your presence when you came here fresh from your victories. We thank you now for the victories of peace—for the wonderful and rapid return to the workshop and the farm of your soldiers, who without tumult or insubordination have fallen into their old places at home as promptly and quietly as you taught them while soldiers to form in time of war in line of battle. They have but imitated their great captain, who knew how to refrain from seeing the capital he had conquered, and has never yet entered Richmond since its surrender. The rebellion you have crushed had for its object the establishment of an empire. It was the foe of republican institutions, though disguised in republican form. Grasping at the hopeful opening made by the temporary success of these conspirators, European ambition has striven to establish another empire over a sister republic. Maximilian, by stranger arms, has been forced upon her brave and unwilling people. Fouler wrong never outraged human annals than the present occupation of Mexico by the French. We sympathize with our sister republic in her day of adversity, and firmly believe in her coming deliverance. A Mexican Grant will yet restore his country, as you have saved your own.

> The power that did create can change the scene
> Of things—make mean of great, and great of mean;
> The brightest glory can eclipse with night,
> And place the most obscure in dazzling light.

GENERAL GRANT'S REPLY.

The general rose amid the most tumultuous cheers. He said: I hope you will excuse me from thanking you at any great length. But there is one sentiment uttered in your address, which is mine also. It is the one touching the future of Mexico. (Cheers.) (Señor Romero, the Mexican minister, was present by invitation, while the address was delivered.)

Mr. Beekman said he felt great pleasure in introducing General Meade, a general to whom we owe the victory of Gettysburg, and but for that victory we would at this moment be engaged in civil war.

As General Meade came forward and bowed his thanks, he was received with enthusiasm.

Colonel Van Buren called for three cheers for Generals Grant and Meade, and the call was responded to with alacrity.

General D'Trobriand was also introduced, and made some few remarks,

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creating considerable merriment by seating himself on the edge of the dais on which was placed General Grant's chair. Dr. Osgood was called on, and in response, said:

DR. OSGOOD'S REMARKS.

I had no expectation, Mr. Chairman, of being called upon to speak on so conspicuous an occasion as this. Yet, as representing a noble profession, and although a very humble member of that profession, I feel justified in speaking a few decided words here. The Christian church has stood by General Grant and the flag he represents. (Cheers.) We have followed him with our wishes and our prayers. We go for law and order; so does he. We are peacemakers; so is he. Thank God for this auspicious day, when our General-in-chief and his noble coadjutors here are brave defenders of the whole republic—as brave and determined defenders, now, of South Carolina, Mississippi and Alabama, as of New York, Massachusetts or Ohio. (Cheers.) God bless General Grant and our brave old flag! That good old flag is his commission, as it is ours also. (Applause.)

Hon. S. B. Ruggles, another of the vice-presidents of the club, made some remarks on the state of the country, and the attitude of foreign nations toward the United States.

VERA CRUZ, *February* 22, 1867.

In spite of broken promises on the part of the French, and an opinion which may be entertained by some in the United States, that the promise would be again broken, the French are, at last, in the act of the evacuation of the "so-called" empire, leaving Maximilian to work out his own destiny. Whether he will immediately abdicate and depart by the Elizabeth, his yacht, or whether (as it appears) he has again changed his intentions, and resolved to remain and die, no man in Mexico knows. It would appear that he is now completely under the guidance of Miramon, who, knowing that his own fortunes are desperate, would seem to desire the honorable association of an emperor with whom to fall. But a few days since, the opinion was general that we should see Maximilian here immediately, on his way to Miramar, but he most provokingly changes the programme oftener than the telegraph can well communicate.

THE EVACUATION.

The French and Austrian troops are entirely withdrawn from the city of Mexico and the interior, the rear guard being near Puebla. About eight thousand troops have arrived at this place (Vera Cruz) by rail, being the advance of the retiring and returning army. The following is a schedule of the number of troops which have arrived at Vera Cruz from the interior:

Date of arrival.	Trains.	Number arrived.
February 11	Military	650
February 12	Passenger	300
February 13	Military	500
February 15	Military	500
February 16	Two military	1,150
February 17	Two military	1,155
February 18	One military	564
February 19	Three military	1,500
February 20	One military	150
February 21	Two military	1,000
Total		7,469

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The accompanying list of transports and iron-clads have also arrived and departed, and by reference thereto it will be observed that about eight thousand five hundred men have left these shores for France within a few days. Most of the Austrian contingency has embarked and already sailed. I presume that the loss of one of the transports, Girond, near Jamaica, is already known in the States. No lives lost.

Names of vessels.	Date of arrival.	Date of departure.	No. of troops on board.	Nationality of troops.
	1867.			
Paquebot Imperatrice Eugenie	Jan. 10	Jan. 13	800	French.
Transport Rhone	Jan. —	Jan. 19	753	Belgians.
Paquebot Noveau Monde	Feb. 12	Feb. 14	800	French.
Transport Yonne	Feb. 12	Feb. 17	653	French and Austrians.
Transport Saone	Feb. 13	Feb. 17	723	Austrians.
Transport Pomone	Feb. 14	Feb. 19	509	French and Austrians.
Transport Drome	Feb. 15	Feb. 19	1,135	Austrians.
Transport Nievre	Feb. 15	Feb. 18	1,057	Austrians.
Transport Var	Feb. 16	Feb. 22	1,000	Austrians.
Transport Allier	Feb. 19	Feb. 21	1,000	French and Austrians.
Total	.....	.....	8,430	

The transports are: Ardeche, Calvados, Tarn and Garonne; the iron-clads ram Magenta, Flandre and Magnaine; line-of-battle ship Ville de Bordeaux; brig-rigged steam war vessel Cher; line-of-battle ship Massena. Steamers Tampico and Vera Cruz are awaiting troops.

As a part and parcel of the evacuation, I should probably mention the arriva here of the following distinguished Mexican gentlemen, who, having identified themselves with the empire, find it a very proper time to visit the Paris Exposition. They left here two days since for France, via Havana and the United States: La Bistida, archbishop of Mexico; Louis Robles, minister of fomento and imperial commissary; Señor Estara, imperial commissary; Antonio Escaudon, merchant.

It is truly wonderful to see the number of imperial Mexicans who have so suddenly acquired a taste for the fine arts, and who, just at this moment, feel it their duty to abandon their interests here, and hasten to France to cultivate the new development. A fear of liberal revenge seems to have wonderfully increased their bumps of sublimity and ideality.

For the past four days, large quantities of ten-inch shell have been put on board of the transports, left from the siege of Puebla; also military equipage, and some few private horses. None of the iron-clads are fully armed, and are armored only half-way to the rail. The Magenta is a very formidable vessel, and looks larger than the Dunderberg.

It appears that the iron-clads will also convey troops to France. Most of the Austrian troops have already left these shores; Maximilian's defenders must therefore be imperialized Mexicans. Of the twenty-two French government vessels which have arrived, eight have already gone with troops, leaving fourteen war vessels and transports, which will immediately receive on board the troops, which are coming down as fast as railroad accommodations under General Stevens—formerly of Robert E. Lee's staff—will permit. It can safely be declared that by the 15th of March there will scarcely be a Frenchman in Mexico. All communication, except by special couriers, with Mexico, was cut off some days since, and the immediate future looms up dark and gloomy for

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Mexico. The five vessels which were driven on shore during the recent norther, cannot be got off, and are nearly total losses.

Beverley Tucker, some time since sought after in the States, is here. His pleasing, generous countenance, indicates kindly feeling; if physiognomy is true, he is guiltless.

It is rumored that Vera Cruz is threatened by five thousand five hundred men, who, collecting at Tlacatalpam and Abamdo, under Colonel Alvarez and General Benevides, and above here, at and near Jalapa.

Flags are afloat in the harbor on French, English, and American vessels, and at the various consulates, in honor of the 22d of February.

Whether it was convenient, or the protest of the United States consul had effect, the quartering of French officers on American residents has been discontinued, and those at residences of the United States residents have been removed.

The vessels with freight for the French, lately arrived, are the Key West and the Cortez.

The French government officials have not yet concluded whether they will pay freight money as agreed on board of vessels, or submit them to the custom duty. Meantime the vessels wait.

THE INTERIOR.

Marshal Bazaine, who is at Orizaba with Madame Bazaine, ill from the effects of the journey down from Mexico, is expected to leave Mexico, via Vera Cruz, in the war brig Cher about the 15th of March.

San Martin, a few miles west of Puebla, was occupied by the liberals a week ago, and the report is that Puebla has been occupied by the liberals.

Maximilian left Mexico city on the 13th, it is said, for Queretaro, at the head of four thousand troops. Miramon has accompanied him. Marquez, who went out with him a short distance, returned to the city, and is expected to defend it with three thousand five hundred men against a larger force under Porfirio Diaz. The determination of Maximilian is unknown. The question asked here is, will he return into Mexico city, or does he intend to make his way to the coast? God only knows what he will do, as Maximilian scarcely knows himself what he will do.

ZACATECAS, *February* 22, 1867.

I arrived in this city on the 22d of January last, where the government met with a splendid reception. It was celebrated with fireworks, balls, and the presentation to me of a valuable cane, costing two thousand dollars, among other marks of respect from its loyal citizens.

At three o'clock the same day the news of Miramon's advance upon the city, with 2,500 men and fourteen pieces of artillery, was communicated to me, and I immediately directed the necessary preparations to be made for its defence. General Aranda did not arrive until the 25th, with 1,500 infantry, 200 cavalry, and ten pieces of artillery, which he brought from Durango. On the 26th the enemy appeared and made a reconnoissance. Although many were of the opinion that the government would retire from this city, and there were many and weighty reasons of public policy for such a course, I nevertheless did not deem it proper to adopt it, and determined to share the fate of our forces. The enthusiasm with which the people had received me, and which now amounted almost to frenzy, and the terrible thought that my intended retreat from the city might be the cause of discouragement among the troops and the people, served but the more to strengthen me in my determination to remain at my post. In a word, my opinion was that, if the city were captured, this misfortune should not be the result of the withdrawal of the government, but rather the cause of it.

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On the 26th, accompanied by the commander-in-chief, General Auza, I twice visited the lines of defence. The enthusiasm of our soldiers and of the people was at its highest pitch, and our hopes of victory were equally great, but in war it is difficult to predict results, and any circumstance, however insignificant it may be, defeats the best combinations. The information sent by the commander of the place known as La Bufa to the general-in-chief not having reached him in proper time, that the enemy had advanced upon that place before break of day, prevented the requisite force being sent to its support, and between six and seven a. m. of the 27th the enemy occupied that point, and shortly after entered the city. General Auza then sent me word that I should look to my safety. Accompanied by Messrs. Lerdo and Yglerias, I then set out on horseback. General Mejia, who had been sick for some days previously, I had directed should be taken from the city the night before. As I left the palace my escort was already firing upon the French, who had appeared at the entrances of the streets. My intention was to go to Fresnillo, but the enemy's advance and fire commanded the road to that place, and therefore I proceeded to Jerez, otherwise known as Garcia City, distant fourteen leagues from Zacatecas. Our troops took the same direction. Miramon, with the main body of his forces, pursued them for nearly three leagues, and though he attempted to destroy it several times, he was as often repulsed, until he was compelled to abandon the undertaking and to fall back upon Zacatecas. I arrived at Jerez on the same day, and on the following day our forces, to the number of one thousand five hundred men, reached the same place.

On the 30th I ordered this force to unite with that of Escobedo, who was on his way to the relief of Zacatecas, and I started for Fresnillo, which I reached on the 31st. On the same day General Auza notified me that Miramon had evacuated Zacatecas at midday, and was retiring towards Aguas Calientes. General Auza advanced to occupy Zacatecas and to harass the enemy's rear, as he had been ordered by Genaral Escobedo. I returned to the capital on the 1st of February, and early this morning received the report of Escobedo, announcing the complete rout of Miramon.

I have herein given you a brief summary of all that has occurred during the past eight days. Personally, I have met with no accident. About the time I left the palace, on the 27th, my attendant took my baggage to a house near the palace, which was subsequently searched by Joaquim Miramon and other myrmidons. My trunk and the cane which had just been presented to me were the only objects saved. The traitors pillaged and destroyed all the public offices. In the palace all was sacked and destroyed, and I have been obliged to occupy a private house.

With the defeat of Miramon our success is rendered the more speedy; for the enemy has now no other troops, and these badly organized, than those of Castillo and Mendez, which will shortly be destroyed.

It is very probable that I shall proceed either to Guanajuato or San Luis within eight or ten days.

BENITO JUAREZ.

ORIZABA, *March* 3, 1867.

The Cordova colony is a thing of the past; the last two families bowed themselves out of the village of Carlotta a week since. Others went last month, six months ago, and during the interim. There were no sorrowing, nor sighs, nor tears; but rejoicing and gladness as each one shook the Mexican dust from his shoes, and turned his face gulfward. The streets and plaza look a litlte deserted, and the broad mangoes wave their branches in the winds, and sing, in company with the sad night breeze, a sort of mournful requiem.

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Sterling Price, now in the land of civilization, sat under the shadow of these noble trees, and slept there, too, with ex-Governor Harris, without shelter from storm and tempest. It was there he composed those romantic missives that, published in the United States, sent out hundreds of fortune hunters and exiles and adventurers, to gather the silver bars and harvests of sugar, and coffee and cotton, and sleep in the lap of this Aztec paradise. You ought to have seen the new-comers, brimful of joy, dash on horseback into the village last summer, lauding the empire; the chivalry of the Mexican race, looking in wonder from the mangoes towards the plaza, that the weeds and shrubs had hid, asking for the spring of cool water that was not there, and the ice cream saloons, and ice lemonades, made of Orizaba ice bars and snow, and bending their cheeks to the cool winds from the mountain peak, which for the first time they learned was forty miles distant. Colonist faces were a study at that time, going in and out of the village. Going in, with prospective music from the crystal fountain, the sight of snowslides from the peak, and orange trees, yellow with golden fruit; bananas hanging in huge bunches; figs and peaches mingling their rich colors; distant coffee groves in bloom; cotton fields white for the harvest, and sugar mills with the busy hum of operatives; the click of mill hammers from the Rio Seco—all romance and humbug and swindle. But people came and swarmed over the valley, and hoed and built and planted, and praised the soil, the climate, and government; talked lightly of, and swore roundly about, the "red, white, and blue." These brave men—generals, colonels, captains, governors, judges and preachers—swearing eternal fealty to Mexico, and eternal hatred to the United States, promised never to set foot on soil where the stars and stripes wave. There was prospect, indeed, of an early and formidable rival on the western shores of the Gulf; and as the multitude came the valleys filled, and settlements extended outward and southward thirty miles. The roads and donkey paths everywhere the thoroughfares of families and men and pack mules; all hunting new lands, no matter where or whose, to grow rich and great, and wise and happy under the genial skies of Mexico.

All the while the village grew, and people came; lots were high, and speculation was rife. Increase brought selfishness; the supply was already heavy; that produced dissensions; strangers were not welcomed as before, and land could not be had at any price around this charmed spot. Some with wire edge worn off in one week turned back, and left all the way and at home an unvarnished and damaging record of the place and country. But then letters had found their way into print; old generals and disappointed judges and governors indited fair stories and Munchausen tales, that did the work. Golden apples were thick on trees, and silver nuggets were lying around loose everywhere; the very clouds showered down beefsteaks, and empty palaces, and blossoming coffee haciendas, acres of maguey, and cotton fields ready for the laborer, waiting, all waiting for the coming colonist. They never dreamed of disappointment and ruin, nor the cold faces of native, Spaniard, and Frenchman set against them; of the freezing sentences dropped from the lips of the land agent here, or the calm indifference of the founders at the colony; no, only of dollars and downy beds, perennial showers and sugar mills. These were the deluded ones; honest, many of them, but most meanly and villanously taken in. The men who founded the colony had acres of land, but gave none; would sell none to the anxious colonist. The adventurer came too, the dishonest man, the speculator and swindler, and harbored here; robbing his countrymen, the natives, every one he could; then went home again to practice morals in his fatherland. The wave went to Cordova; overran that town, so that people woke from their sleep, put up their rents, their goods, their lands, and waited. We had American hotels, livery stables, American hacks and manufactories, all in a week. Then these political and pious brethren bid against each other run up prices

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bought and sold and speculated, borrowed money of each other, opened large houses for hotels that never paid, monopolized business, broke, and then fled the country, leaving their friends and the natives unpaid and bankrupt. A large portion of them came to grow rich, came without money; persuaded others into wild speculations that they knew were swindles, rejoiced in fine outfits, flourishing and flashing signs that meant nothing; spent and played at faro and monte, and then went at night and in disguise, any way to evade the law and their victims, to the States They accepted land of the government—it cost them nothing—sold it to the unsophisticated and believing, drank, out-Heroded the veriest Greaser, and cursing the country and people, went home as they came—robbers, drones, and rascals. When the rush was at its height discontent grew apace and murmurs waxed loud; the fathers of the concern were roundly and deservedly denounced. Old Sterling Price, the good, kind old man, with the fire of battle gone, exiled, now traduced in his age and helplessness; Harris, ex-governor of Tennessee, strong and unchanged by reverses, with a voice clear as when he rode triumphant on the field of Shiloh, him they spared not in their wrath; Judge Perkins, of Louisiana, now in Paris, the head of the land bureau here, chary of his words when colonists came, proud and polite and uncommunicative, without shadow of sympathy for his countrymen or for any one, him they tracked down and traduced, had him suspended; had the whole disgraceful colonizing scheme, Maury and all, abolished; left him in his glory and solitude, and homeward they journeyed, moneyless and disappointed, in supreme disgust with country, officials, and themselves. Then came trouble with the natives. Indiscreet men squatted on private lands; bullied and blustered; appropriated by right of possession; played the *role* of overgrown fools; made trouble; disgraced themselves and the American name, and ended at last in their capture—in the destruction of their little property, a four weeks' imprisonment on starvation tortilla rations, and a peremptory order to quit the country. Then also succeeded other raids on the Carlotta district, into the village itself, and a general scatterment of citizens followed, loss of property, and a tremor in the founders themselves. From that time the colony grew weak, and people lost faith in it. The French were unfriendly, the natives hostile, the Americans demoralized. The Imperial Railway Company went begging, stopped work, and sent employés and contractors hither and thither, without pay or even the promise of it. The tide swept backward then. Panic stricken, they sold out; sacrificed their sections of land, crops of corn, cotton, and tobacco, their cabins and horses and hoes, and downward toward Vera Cruz, on foot, horseback or wagon, they journeyed. When too late land owners grew generous and made voluntary offers of tracts and lots of land in and around the village gratis. Then it was that the selfish and speculative spirit took fright; then business flagged and crimination followed, and men swindled each other, litigated in the courts, sued for trivial sums, and, through spite, quarrelled and loafed, and drank and grew turbulent; ridiculed the Mexican religion, and depreciated the country and people. Prices went down in a week; rents and credits went the self same way; and men who came without a dollar, and speculated upon their fellows, with hotel bills unpaid, stole, like thieves as they were, out of the country, and landed on the other side of the Gulf with tales of robbery and misfortune and native treachery in their mouths. Scores who had sworn, in their zeal for the empire, never to set foot again on American soil, were seized with leave-taking—calls of business from the States; started on a visit, disposing quietly of their plantations and traps for a song, and waited not till on board a steamer, and in raptures swinging their hats for the stars and stripes, and thanking Providence and the fates that Mexico was out of sight forever. The United States, with free schools, and free negroes tacked on, was not so finished a humbug after all; although caucuses and bar-room gangs, fired by past wrongs and brandy smashes, did expend bits of incorrigible logic to crush the little American re-

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public. What a breaking up followed in a few months—a swallowing of bitter terms and savage invective—in vulgar phraseology "dirt eating," humiliating excuses trumped up for going home again, a pulling down of flaring hotel signs, dropping of newspaper notices and defiant letter writing, a shirking of fair contracts and a general swindling of honest men. Native professionals were put to the blush, and felt more than ever like honest men. And then commenced a system of detraction in nowise creditable to the American character. You could see blustering men "button-holing" each other on the streets, denouncing colonization, toning mildly the wrongs from which they fled, paving the way for a respectable retreat out of the country, truculently seeking pardons, sacrificing principle, as blustering bravado ever does. The loudest talkers fell early, fell first; even the genial, generous ex-judge, ex-senator from Louisiana, struck his colors in September, pushed off from Vera Cruz, leaving the friends he was instrumental in bringing hither to rough the trials and revolution alone; General Price, for whom there is some slight palliation, broken down and bent with age, misfortune, and grief, left without even notifying the families and men he had drawn here by promises of wealth and health and peace. The first to set a stake in Mexico, almost the first to leave it; now in St. Louis, while his colonists here ask charity of strangers to take them home. It was a palpable desertion of friends; let him excuse it if he can. Harris, perhaps more consistent than his compeers, waited till the last footfall of retreating colonists at Carlotta was heard dying away, then took ship for Havana. Shelby, faithful to his trust and promise, waited to see the last one of his friends on the homeward way. He has been engaged in a new colonial enterprise in Mexico, which at present is no nearer completion than it was four months ago. The present stormy times will discourage the bravest spirit.

Let me recite here a little scrap of unwritten history, told me by a colonel of Texas cavalry. This General Shelby, it will be remembered, was the most dashing cavalry officer west of the Mississippi. When the fall of the confederacy was a fixed fact, he, with many other officers of the trans-Mississippi department, were encamped at Marshall, Louisiana. Shelby, with others, conceived the plan of deposing Kirby Smith, who was incompetent and unpopular, and placing the supreme command in the hands of some other officer, cross to the Brazos, rally there all confederate troops, make a stand at the river, and hold Texas; but in case of failure cross the Rio Grande, enter Mexico, and decide the destiny of that country by arms. Preston, Generals Price, Buckner, Shelby, and many other officers were present. Smith must resign, or be at once deposed by force. A delegation called upon him; I will refrain from particulars. He acceded, and the command was given to Buckner. Thus far things had proceeded smoothly. Officers of divisions were hourly expecting orders to move, but none came. Two days afterwards, Buckner and Price, to the amazement of all, made a surrender of all their troops. I may be mistaken as to Price's participation in the conference. The undaunted Shelby, baffled in his plans, refusing to surrender, led his command through Texas, and across the Rio Grande into Mexico. Selling arms, as the public knows, to the liberals, his men scattered, some enlisting under the liberal flag, some under the imperial. Others became colonists, and subsequently went home. Brave and generous to a fault, had he in the beginning joined his fortunes to the stars and stripes, instead of the ill-starred confederacy, Sheridan would have had in him a most formidable rival.

Hindman, with the will to do, had too much fear of the "wolf at his door," and most gracefully lowered his colors, applied for pardon, and is now on his way to New Orleans. Poverty was, in most cases, more potent than patriotism; and, indeed, many an honest man, who came upon principle, was at last whipped by prospective starvation to take the backward step. Robbers put an end to agriculture; the railway work was suspended indefinitely. What else was there

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in Mexico to put bread into the mouths of dependent ones? It was an open, quiet tug between principle and starvation, and the latter won—always won. You have heard, perhaps, of moneyless men footing it all the way along the coast to Texas, and of hollow-eyed want on the streets of Cordova and Carlotta. The first was not true; the latter was. Prodigality and pride, American characteristics, travelled all the way to Mexico, and were deeply humiliated. Money was thrown away in amusement and lost at monte that ought to have been husbanded for a rainy day. Land and hotel, all kinds of speculations, swallowed up the few hundreds, and when circumstances compelled a retreat to the States nothing was left to pay the passage. Repentance came when there was no remission; hundreds to be helped and none to help them. Not to mention the desperate means used to aid them in fighting back to the fatherland, it will be doing but justice to state that Marshal Bazaine and his chief of staff furnished transportation to Vera Cruz and passage free to New Orleans and Havana to many destitute Americans. Beverley Tucker and son, (who, by the way, had been robbed seven times and suffered sundry injuries in addition, all in the space of eight months,) with half a dozen others from the Carlotta colony, accepted gratefully the kindness of the French marshal.

Every class and profession was represented in the colony. But lawyers were briefless, and doctors barely managed to live. Preachers came, too, brimful of the divine afflatus, strong in the faith of universal conversion to Protestantism. One read sermons awhile under the mangoes of Carlotta, then left his little flock to gather funds in the States for a temple in the forests of Mexico. So he braved the yellow fever at Vera Cruz, suffered perils by land and sea, and, it is understood, made the necessary appeals for aid in the way of church collections, but never returned. A brave missionary came, promising, as his eyes fell upon the broad, green Cordova valley, to cover every hill with a chapel, and turn the deluded Aztecs by thousands into the narrow way. Arrived at Cordova, he wasted his eloquence upon audiences of from five to ten for two successive Sabbaths, at least, and then went to teaming for a living. The missionary effort was spasmodic—mule driving was no better; and in three months he took passage for the land of psalm-singing, Sunday schools, and civilization. Convert a Mexican Catholic to Protestantism! The idea itself is quite humorous—Americans left their piety on the other side of the Gulf; they tabooed sermon-makers and homilies.

When their dead were lowered into the grave it was in silence, in haste, and without religious service. The amenities of life were scarcely recognized. The sick in many cases were neglected by countrymen and natives, and when the season of fever came on, and strong men dropped into the death sleep in a day, the saddest sights were to be seen; scores there were of idle men in the streets, but none at the death-bed; crowds in the bar-rooms and at billiards, none at the burial. I speak of the mass; there were noble exceptions. Employment was to be had nowhere; so men wrangled instead, fought over their battles, fought each other—when opportunity offered, sued each other, shirked the payment of debts, borrowed and decamped, repudiated contracts and sales, reeled on the streets, insulted strangers, insulted citizens, bullied and boasted to the end. There are a few cases on record where these immaculate fellows swindled their honest countrymen and made beggars of them, most shamefully robbed and fleeced the unsuspecting natives, then ran away at night time, crossed the Gulf, entered a newspaper office, and denounced, heartily and roundly, with pious, pretentious horror, the whole Mexican race, calling them robbers, murderers, treacherous—everything denunciatory. What a marvel it is that ten Figueras instead of one did not pounce upon them, good, bad, and indifferent, and escort them, not to Oajaco, but to the Rio Grande, with the injunction never to return. But to-day not a footfall is to be heard in Carlotta; ten months ago busy with bustling life and swarming with fortune hunters; tenantless houses, weedy gar-

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dens, fields of unharvested corn; ploughs, axes, and hoes lying where they fell; the mahogany bucket hanging in the plaza well, and tall sprouts running riot with streets and prospective lawns; one is painfully reminded of a deserted town and a woodland wilderness. The landed gentry, the speculative exiles who held their acres at fabulous prices some ten months since, where are they? The robber band of Figuera swooped down upon them when arrogance and selfishness were high in feather; when affluence and Mexican dollars in prospective haunted their sleep and sparkled in their eyes, and when a poor, footsore brother confederate could not get an inch of the precious land for love nor money. It must be with a sort of savage pleasure that the deluded ones who were so heartlessly swindled read how the iron features of that most finished official of the Cordova circumlocution office settled down into a gray paleness when he learned that his land section was a bubble, and his invested doubloons sunk into the bottomless deep of an imperial humbug. I have heard it said that the colony deserved to fall; that it was a speculative enterprise, the founders looking upon it only in the light of a money-making machine; and, indeed, the conduct of many of these exiles warranted just such a finale as has occurred. Insult a people of whom you ask a home; curse the man whose property you have basely appropriated; be he black-skinned Mexican, straight-haired Aztec image worshipper, no matter whom, you deserve no particle of sympathy when your thatched roof tumbles in, your cattle are driven off, corn trampled down, and yourself tramped off into captivity. It was unfortunate for the good men who came; the few honest, noble men who quitted home to avoid insult and humiliation, for all shared a like fate—went down in the general melee and returned home, penniless and disappointed. It is to be presumed that men who pretend to exile themselves in a foreign land would be desirous of clinging to each other, strengthening each other, and aiding each other. But petty jealousies sprang into life at the beginning; clans grew, like mushrooms, in a night; lines (birds of a feather) were drawn; then detraction commenced and scandal travelled, and men who served in the army combined, in drunken brawls, to oppress, to bully, and put down the weak, to perpetuate wrong, defame honest colonists, and defy justice, decency, and Mexican law. A Yankee was spotted and shunned, noticed only when a loan or favor was asked, or a treat in prospective. The Mexican never had much faith in Americans. He looked upon them as a grasping, ambitious, energetic, covetous, wise as serpents, sort of a people. In Cordova, after one year's experience, American character is associated with whiskey, braggadocia, rudeness, dishonesty, and indolence. If any one doubts that let him apply, and he can have the best references and testimony that the town can afford, merchants, ex-governors, judges, alcaldes, ladies, and scores of them. Native antipathy to our race may be offered in extenuation; let it be, I deal in facts only. In one month from this date, a colonist of Cordova tells me, not one American will be left in the place. There are but half a dozen there now, and all setting their houses in order for an early exit from the country. Not one will remain behind the retreating French army. No tears from the natives for their going, only rejoicing and gladness. Such is the brief history of the Cordova colonization scheme.

The Sombra of Zaragoza, the official journal of President Juarez, in the State of San Luis Potosi, published on March 16, a translation of the protest made by French, Austrian, and Belgian officers against the execution of French prisoners captured at San Jacinto. The protest appeared originally in the Courier du Mexique, of the capital, 24th of February, and is signed by officers from the rank of captain downward. The following are the main features of the protest:

Escobedo holds that we are bandits because the flag of the intervention has quitted the country, while we remain to fulfil loyally the engagement which binds us to the service of Mexico. He holds us to be bandits because we are foreigners, and belong to no flag whatever. He holds us to be nothing but offscourings of all nations; that we are like the *condottierri*, and have hired our-

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selves to the chief who pays best. To this have we come at last, thanks to Marshal Bazaine. Is this the lot reserved for us because we try to keep the promise which he had authorized us to make, and from which he could not free us? We know full well from what quarter the blow came that laid our comrades low. Well do we know who has marked us out for a like fate should we fall into the hands of a ferocious enemy, who regards the terms *civilization* and *humanity* as words void of meaning.

What was, indeed, the answer given by his excellency Marshal Bazaine to the call made in a fraternal way by the emperor of Mexico to the army of the empire in favor of such French soldiers as would remain in its ranks? His reply was most unjustifiable. He called attention to the law depriving French citizens of their rights as such when they enlist in foreign service without the consent of their government. What was this but bringing us to the level of parias for drawing our swords in support of a government set up by France and kept on its feet by her during four years?

But, in our case, we had obtained the consent required. You yourself, marshal, had given it to us, and you are the one who has thus thrown us into the danger. And know you are ready to make us break faith. But an oath, marshal, is a sacred thing; and you have no power over our consciences. It is your declaration to which we refer, that has in a certain manner placed us out of the pale of international law, and has served as a pretext for the insults and assassinations of Escobedo. Should not the blood thus spilled call down the vengeance on the head of him who has been the primary cause of this butchery? It cannot be otherwise—the dead will arise one day from their graves and cry out against the guilty one, "Cain, what have you done with the blood of your brethren? That blood calls for vengeance, and we will avenge it."

Let his Majesty's government form us into a legion and put us at the front under General Miramon. We call upon those soldiers of the foreign legion who are in the ranks of the enemy to recollect that they should not remain side by side with those who cowardly assassinate their brethren and compatriots. Let them come over to us; the past shall be forgotten, and one common tie—a lawful revenge—will unite us all together.

The reply of the Sombra de Zaragoza, after quoting from Wheaton to show when and how far it is considered lawful to inflict death, says:

Wheaton lays down that an enemy's prisoners should not be put to death unless in certain well-defined cases of necessity, such as when it becomes impossible to keep them, on account of the enemy's powerful attempts to liberate them. In the case of Tepetates the prisoners became not only a hindrance to us, but a source of real danger, as we were threatened by the forces of Severo Castillo, advancing at the time to re-enforce Miramon. General Escobedo could not, without danger to himself and the government, detach any of his troops to take care of the prisoners who were not even paroled. Had the oath been given to them, it is not likely that they would have kept it, as we shall prove hereafter. Hence the conduct of General Escobedo is justifiable, and cannot be termed an act of barbarity or an assassination.

The reply of the Sombra goes on to refer to the history of the intervention, to the unwarrantable invasion of Mexico by France, to the violation of the treaty of Soledad by the French, and states that, "even were the soldiers who were shot at Tepetates, fighting under the French flag, they would have had no right to ask terms from the republicans, since they granted the latter none; nor could they be considered trustworthy as prisoners of war, after having broken their faith and made the Mexicans fear them as much in peace as in war."

It then refers as follows to the order of Marshal Bazaine, spoken of in the protest:

We have before us two important declarations made by Marshal Bazaine: First, that all French soldiers who would remain in Maximilian's service should

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by the fact lose their nationality. This declaration is in accordance with the general practice of all nations. Secondly, that after four years of war, waged with all the means of France at command, he had acquired the conviction that the sentiment of the Mexican people is in favor of the republic, and, of course, that the establishment of a monarchy is impossible.

Now, if the fellow-citizens of Bazaine call him a second Cain, that is a matter with which we have nothing to do. But we must assume that the marshal made the first declaration, either in conformity with the laws of his country or else in the name of his government. In the first case, which is the most likely, the men who remained in the service of the so-called empire voluntarily surrendered their nationality. In the second case, they got clearly to understand that when France withdrew her flag, and with it the strong but ineffectual support which she lent to Maximilian, it was either because she wished to spill no more French blood in support of a hopeless cause, or else because, having fallen out with her ally, she did not consider herself bound to continue her support.

When the French government broke its promises and withdrew its plighted word in the face of the world, could the authors of the aforesaid protest expect or believe that its engagement with individuals would be more sacred or irrevocable! If we add to this the fact they could not be ignorant of the unpopularity in France of the Mexican expedition, we shall have to conclude that these men have rebelled against their own country, which found itself forced to abandon them to their precarious lot. Nor could those soldiers thus forced in so narrow a strait fail to know that they were going to fight against a government which could on no ground whatever recognize the so-called laws of a pretended empire. Even if they had, in conformity with such laws, adopted the Mexican as their nationality, it would have been unpardonably absurd for the republicans to grant any guarantees to men whose very claims betrayed their spurious and manufactured origin; to men who, by sustaining Maximilian, were bound to follow him in his career of spoliation; to men who, by making themselves the instruments for carrying out the famous law of last October, which was so prodigal in dealing out death to dissidents, whom they designate as bandits, *whatever may be the number, organization, character, or name by which they may be known.* * * * If we were bound to respect our enemies solely because they are loyal in the fulfilment of their engagements with their masters, where should we stop? Then, does loyalty in the performance of one's promises always justify the end for which that promise was given? If this were the case, we should erect monuments in honor of the filibusters who were led on to certain death by the daring pirate Rausset Boulbon. We know that France, at that time more just than now, did not claim them as citizens, nor interfere to prevent their punishment. The similarity between the foreign servants of the empire and the adventurers led by Walker to Nicaragua, who were for the most part Americans, is none the less striking than the above. They were not treated as having rights under the law of nations; and it is notorious that even the government of the United States lent its co-operation to exterminate them. Contemporary history presents us another fact similar in its circumstances, namely, that of the adventurers enlisted under Narcisco Lopez, for the purpose of getting up a revolution in the island of Cuba. The Spanish government was bound to consider them a band of pirates, and, indeed, it so treated them.

Forms are of no account as against the substance of things. The facts that Maximilian styled himself emperor; that France and other nations recognized him as such; that he invaded more or less of our territory and set up a mockery of a government, and that he found Mexicans infamous enough to second his views. These facts do not improve the vicious character of his establishment in Mexico, nor can they affect in the least the justice of the title usurper which has been given him. Indeed he did not come here, even at the invita-

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tion of any party that could arise by its own strength, but rather under the shelter of a foreign flag, which protected him in his usurpation, and at a time when there existed, as there now does, a rightful government established in accordance with the will of the nation and conformably with the requirements of our organic law. These are the weighty arguments which fix Maximilian and the *condottieri* who follow him in the same predicament as Walker in Nicaragua, Lopez in Cuba, and Rausset in Sonora; all of whom could not fail to be considered as pirates by the respective governments of those places; and pirates are without the pale of international law.

Let not the hackneyed argument about *de facto* governments be presented to us; for besides the fact that such sort of government is not well defined by any writer on public law, reason, justice, and a due regard for the public weal teach us that a government should be regarded as *de facto* only when it can sustain itself by its own force, and present a guaranty of stability and peace, while at the same time securing the fulfilment of its international engagements, and at the same time not resting its claim to priority on the right of conquest, which is now reprobated and proscribed by the civilized world. Finally, when such a government can with prudence and energy preserve at least public tranquility, and thus make up for the loss of liberty, although not resting its own claim on the love of the people. In which of these conditions can Maximilian claim to be? Instead of recognizing the claims of justice or believing in the advantages of peace, he carried war to the very confines of the republic. Instead of putting himself in the way of fulfilling any of his international obligations he entangled himself in engagements which it was impossible for him to fulfil. * * Converting his military expeditions into what resembled hunts after wild beasts, he has destroyed all confidence on the part of his enemies, stifled whatever magnanimity they had left, and placed them in the inevitable necessity of taking eye for eye, tooth for tooth, and head for head. And still we cannot admit that he has succeeded in setting up might over right, but rather the law of Talion to a most frightful extent.

Referring to the "cry for vengeance and the proposal to fight it out to the bitter end," spoken of in the protest, the answer continues:

Such a struggle as this had already begun long since on the part of the French, with the wicked establishment of courts-martial organized for the purpose of systematizing murder; with an ostracism which sent the defenders of our independence to the most deadly places of imprisonment in the Antilles; with the calaboose in San Juan de Ulloa, from which about one per cent. of the prisoners came out alive, and no one could tell whether the sword or the bullet, the cup or hunger carried off our fellow-citizens. It continued in the pillage, sack, and burning of whole towns, together with the assassination of our people, and was kept up by the vilifying accounts of their writers, the shameful calumnies that issued from the mouths of their generals, even in the parliamentary assemblies of France, and by the absolute ignoring of every principle of humanity, of all the laws of war, of all the maxims of morality, and all the sentiments of humanity.

Now, we have shown that the action of General Escobedo in shooting the prisoners taken at San Jacinto was authorized under the law of nations; and, moreover, that all the aggravating circumstances to which we have alluded stamp the measure as entirely legal and fully justified. In putting to death the San Jacinto prisoners there was no wish to wreak vengeance on a handful of foolish adventurers, who had hired themselves out to butcher Mexicans, but there was, indeed, the intention to annihilate, if possible, in their persons, that spirit of filibusterism so hurtful to the peace of nations.

We have shown the propriety of these executions, because, based as they were on justice, it seriously concerns the fair fame of Mexico in history. It is of value to do so, because it will serve to check henceforth the avarice and ambition of foreigners, and will serve to let the world know what is our real social and politi-

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cal situation. Finally, these grand principles will serve, after the consummation of our national triumph and the re-establishment of peace, to form a text for the treaties which we may make with the remaining powers of the world.

Mexico does not admit nor recognize de facto governments in countries where popular representation has been established. Neither does she recognize as Mexicans any but her native sons or such as choose the Mexican nationality in conformity with the laws of the republic.

Mexico does not admit the principle that a naturalized citizen can reclaim his original nationality. Foreigners who acquire real estate in Mexico lose by the fact their title to foreign citizenship. Nor do foreigners who enrol themselves under a political banner to subvert public order or contribute toward its overthrow hold any rights, and none shall be recognized in them.

[From the New York Herald, April 25, 1867.]

Activity of Gen. Marquez—he steals away from Queretaro to Mexico with full powers from Max.—raises money and men, after changing the whole ministry—off for Queretaro or Puebla again—Max tries to make Mexicans believe Uncle Sam means to meddle in Mexico—Juarez and Maximilian contrasted—French calumniation of Juarez, &c., &c.

MEXICO, *March* 31, 1867.

Like the skilful practitioner, who, when a body is dragged cold and limp to the shore, and those grouped about declare the case hopeless, detects the germ of life and warms it into vigor, General Marquez has infused into the drooping empire a new existence. By his energy and boldness he has made of the passive power of Maximilian's character an actual and creative principle. No longer troubled with anxiety about European interference, he has turned to account of the imperial régime the policy of the United States in regard to the continent of America, and snatched from the unskilful hands of the liberals what should have been their strength and stay. Postponing every consideration to the salvation of what he called the state, he disregards every right, public or private; and, accepting the responsibility as boldly as ever Jackson did, goes directly to his aim without a thought of the danger and difficulties his mad career is preparing for Mexico in the future with European nations. In fact, Marquez believes that while the moral attitude of the United States holds in check all transatlantic intermeddling, he can deal with the Juarists and keep afloat a government of conservative elements (whatever political name shall be given it) on the current of events.

Having in vain essayed at Queretaro a compromise with the liberals, who refused to yield an iota of their pretensions in favor of traitors then allied with a usurper, Maximilian, he and his chief adherents, determined on a daring course. A decree, issued on the 19th, proclaims General Marquez lieutenant general—a title which, from his proceedings since his arrival on the 26th at the capital, would appear to confer powers but little short of the absolute disposal of life and property. It is as follows:

"For the discharge of the extraordinary and important mission which we have intrusted to General Leonardo Marquez, we name him our lieutenant general, invested with full powers according to 'the verbal orders which he has received from us.'

"Given at Queretaro, the 19th of March, 1867.

"MAXIMILIAN."

Armed with the authority which Maximilian, emperor of Mexico by the grace of Napoleon III, is fully empowered to delegate, Marquez passed through the

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liberal lines around Queretaro on the evening of the 21st, and by mountain paths fell upon the city in the manner of an aerolite. At once Mexico was awakened from the lethargy that for weeks had been weighing upon her, and it was felt that something was coming which must be a relief to the monotony of expectation which had been eating into the very heart of hope. Yet no one anticipated the very tornado of energy that was to burst upon the capital. A forced loan of $800,000 was imposed; the press gangs pushed to greater activity; the ministry removed and new ministers appointed; General Vidaurri named to the treasury; Mr. Lares, who had been charged with the state department during the emperor's absence, reduced to his former sphere as minister of justice, with a severe reprimand for his inertness; and Mr. Campos, the finance minister, who reminds you of the skeleton of John Randolpho f Roanoke, grown obese with bile and rudeness, threatened to be brought to trial for failure to supply the army of Queretaro with the necessary resources. Within thirty-six hours the lieutenant general had raised $400,000, an army of four thousand men, and, giving out that he was on the way to raise the siege of Puebla, took the road within the next twenty-four hours for the interior, leaving the government in charge of General Santiago Vidaurri, the new minister of finance.

Mexico stood aghast; the foreign representatives called a meeting, but did nothing; some of the body feared to be provided with their passports, others had been just comfortably married, and all gave in to what was sapiently resolved could not be remedied. Meanwhile the forced loan continues to be levied, principally upon foreigners. The Bank of London and South America is put down for $50,000; the French minister's wife, or rather her dowry, at $8,000. On remonstrating, his excellency is informed that it is not the minister who is assessed, but the property secured to his Mexican wife before her marriage. Not yet satisfied with this rehearsal of the raising of ways and means, a contribution is imposed on the owners of city property of one month's rent for the government, and upon the tenants of half a month, to be paid within sixty days. Señor Bermejillo, a Spanish capitalist, has his house closely invested by soldiers until he pays his quota of the forced loan; the same with the family of Rincon Gallardo and others—not a loaf of bread, nothing, is permitted to pass to the hungry household, and the water is threatened to be cut off unless the demands of the government are complied with. His excellency of the treasury counselled a foreign merchant and particular friend, upon whom he had been under the painful necessity of imposing the amount of $15,000, to take advantage of the lull that would follow the first loan and sell his property before a second imposition of the same order could overtake him on his road out of the country. These violent measures are sought to be justified by the refusal of President Juarez to listen to any overtures for an arrangement. "If," the imperialists say, "we are to be sacrificed to party vengeance and branded as traitors, we shall perish to the last man and leave the country desolate. We have offered terms; they have been rejected; the responsibility of the frightful consequences which must ensue from measures which the first law of nature justifies us in adopting belongs to the relentless Indian, Juarez, and his fierce bands of robbers." This idea now ought to be made the principle of the empire, and the reason for Maximilian's longer continuance in the country is ostentatiously developed in a communication to the minister Aguirre, dated March second, at Queretaro:

"My Dear Minister Aguirre: As my departure for Queretaro at the head of the recently-formed army might be falsely interpreted, both in the country by malevolent persons, and abroad from ignorance of the facts, owing to the many calumnies which our enemies disseminate eagerly respecting the conduct of our government, I believe it necessary to present a few observations, which might serve as explanation and guide in the present difficulties.

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"The programme traced by me in Orizaba, after having heard the frank and loyal expressions of the councils of state, has not been altered in the least. My dominant idea is still in favor of a congress as the only solution that can settle a peaceable future, and a basis on which to rally the contending parties which now cause the misfortunes of our unhappy country. I put forth the idea of a congress, which, on my arrival in the country I was most anxious to realize as soon as I had a certainty that the representatives of the nation could be convened free from foreign influences. While the French held sway in the centre of the country, there was no possibility of thinking of a congress enjoying free deliberation. My going to Orizaba hastened the march of the troops of the intervention, and thus brought around the day when a constitutional congress could be openly spoken of; that it was impossible to take this step earlier, was demonstrated by the very strong opposition which the departing French authorities made to the idea as put forth at Orizaba. A congress elected by the nation, and affording a true expression of the majority's will, is the only remedy for our civil war, and the only way to stop this melancholy spilling of blood.

"I, the sovereign and chief called by the nation, submitted on another occasion with pleasure to the expression of its will, influenced by a most ardent desire of ending promptly this desolating struggle. I did more, I addressed myself personally, as well as through trusty and loyal agents, to the several chiefs, who say they fight in the name of liberty and of the principles of progress, in order that they, as well as I, should submit to the legitimate wish of the national majority. What was the result of these negotiations? That the men who invoke progress did not wish to do so, or could not submit to such a test, and they replied by shooting loyal and distinguished citizens, rejecting the fraternal hand which wished peace between brethren. They, like blind partisans, prefer to rule exclusively with the sword in hand. Where is then the national will? On which side is the desire for true liberty? Their only excuse, therefore, is their own blindness. On them no reliance can be put, and we have no other duty than to work with all our energies to restore as quick as possible liberty to the different centres of population, which can then express freely and frankly their will. This is the reason why I, myself, marched to this city hurriedly, seeking by every possible means to restore to our unfortunate territory peace and order, and to save the country a second time from hurtful foreign influences. From the east there came forth the bayonets of the interventor; it is necessary to place the country in such a position that other armed influences, either direct or indirect, may not attack our independence and the integrity of our native country. We now witness a barter being carried on within our territory. It is for that very reason necessary to seek in every way an end to this critical situation, and to relieve Mexico from every oppression, from whatever side it may come. In fine, a national congress will settle the destinies of Mexico as to her institutions and form of government; and, if this reunion should not take place, because we who endeavor to bring it about succumb in the contest, the good sense of the country will always give us credit, and say that we have been the true defenders of liberty; that we never sold the territory of the nation; that we strove to save her from the oppression of a second intervention, and that in good faith we presented the means of gaining a triumph under the auspices of the national will.

"Accept the assurances of my good will. I remain your most affectionate,

"MAXIMILIAN.

"QUERETARO, *March* 2, 1867."

We trust in all sincerity that our good emperor's intentions are purer and clearer than his style. If his moral education has not been better than the evidences given of the care bestowed upon him by his masters in logic and rhetoric, we fear that Mexico will profit but little from his intentions. With all

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due deference, however, to the best intentions, his majesty of Mexico has published some few inaccuracies, which with the same tenderness of language we have employed to qualify what would be called in certain places by a Saxon monosyllable, must be pointed out in the interests of that history for which Maximilian and his scribes are even now preparing and giving to light truth-flaying documents. The studied effort to cast the odium of the continued disorders and bloodshed that deluge Mexico upon the party which has for years been struggling for the freedom of their native country from the slavery of European systems, exposes more completely either the bad faith or weakness of Maximilian. He pretends not to understand, or ignores, the elementary principle that by treating with one who is the creature of a filibuster, the liberals would at once invest an usurper with a right to propose and reject terms in a land that honors him only as a stranger. His majesty, prince or emperor, had his misgivings of the will of the people as early as his first appearance on the soil of Mexico, for he then cherished the idea of a national congress; the panacea which is to cure the ills of a revolutionary country; that doubt could not have been removed by the refusal of Porfirio Diaz and men of the same stamp to accept his overtures, or by the repeated declarations of President Juarez against the proffered services of foreigners to come from abroad in aid of Mexican independence. The country will not hearken to his propositions to unite in a congress, because the constitution confers upon a stranger no right to convoke the representatives of the Mexican national will. The majority has expressed its will, and Maximilian tacitly acknowledges his consciousness of the feeling against him by an appeal for the congress, which must be composed of members elected as Napoleon III delights to hear the people declare their choice. Maximilian, despite every sophism, every artifice, will be responsible—if he persists in remaining in Mexico, merely to furnish to a few desperate men the shadow of a right to ruin their country—for all evils, for all blood shed, nay, for the loss of the independence, which he deprecates, and, with the obstinacy of falsehood, is clamorously throwing up as the sin and perversity of the constitutional party of Mexico. He has done enough to vindicate his personal dignity and self-respect since the withdrawal of the French, and can without disgrace withdraw from a portion of the American continent that neither requires his presence nor desires the worn-out routine of Europe. Maximilian clearly invites the intervention, whose bayonets he descries in the east; and indicates the issue to which the Mexican question has been rapidly narrowing itself within the last few months—American liberty for individual action, or European system with its trammels and gubernatorial intermeddling. At this juncture the liberal party is more averse to interference on the part of the United States than the imperialists; those believe in their ultimate triumph, while the latter have no hope against loss of country and property but in the good offices of the American government. We have spoken in detail upon the contents of the foregoing letter, as it contains the principle for which the imperialists pretend to fight and justify their continuation of a contest prolonged by the egotism and wilful obstinacy of President Juarez. He it is who, like the Aztec priest, raises the knife to rip open the body of his native country bound upon the bloody sacrificial stone. Maximilian, serene and benignant, offers a higher principle of self-sacrifice, and saves the victim by giving himself in expiation. The house of Austria and the nineteenth century claim the joint honor of having produced this political knight-errant, in atonement for the loss of the Lombardo-Venetian territory and the preservation of the American Union.

But to return to the foreign ministers. Deeply indignant and outraged by the imposition upon their several nationalities of a forced loan; these respectabilities called a meeting of what is facetiously known in Mexico as the diplomatic corps. The ingratitude of the imperial government, recognized and manipulated

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from a fledgling into the image of an adult bird between an American owl and the Austrian eagle, was loudly exposed. No sooner had the French army disappeared than the Mexicans relapsed into their old "hankering" after the goods of others on their own account, and not to be remitted, as during the intervention, to Europe. These people were incorrigible. The Spanish minister, Marquis de la Rivera, said if only he had a fleet at his disposal he would * *. This generous motion was seconded by Baron Magnus, Count Bismarck's representative, with, "if he only had," to which yearning ejaculations M. Dano, French plenipotentiary (yet in good humor from a prolonged honeymoon,) generously offered to send for the French squadron in the West Indies and place it at the orders of his colleagues. The blank visages showed that the gentlemen had got in presence of a fact that at once frightened them into an adjournment, not only without a day, but even without a protest, which has always been a favorite branch of *belles lettres* with the diplomatic individuals accredited near the government of Mexico. These very correct and dignified exponents of impotent consequentiality enjoyed the satisfaction of submission to the defiance of a government they had cradled into growth, and of establishing a precedent for the ruin of their fellow-subjects in Mexico.

The French faction here have united with the imperial conservative party, in a systematic calumniation of President Juarez. The Gauls have neither forgotten nor forgiven the treaty of Soledad, which broke to pieces the convention of London, and sent the English and Spaniards home in 1862. By this skilful stroke the expedition from France had either to return as they came or resort to falsehood and treachery, to effect their design of holding Mexico as a colony, for the purpose of checking American advances, and of turning the current of silver from London to the bank in Paris. Having exhausted in depreciation of the President of Mexico every sin known to the decalogue, as comprehended under the moral law of Napoleon III, they now accuse him of habitual and frenzied intoxication. Under this influence the order was given to shoot the French soldiers taken by General Escobedo at the battle of San Jacinto, and fears are expressed in most exaggerated phrases of furious revenge and cruelties to be perpetrated should he once be allowed to enter Mexico. French policy, ever at work, would carry out its designs under this novel form of moral intervention. From the best authority we are enabled to deny the truth of so disgraceful and scandalous an attempt to vilify the President. An American gentleman, recently from daily interviews with Juarez, contradicts in the most direct and positive manner the indulgence in the degrading vice of inebriation by the man who has given an example of constancy too rare to permit the belief that he had not firmness sufficient to resist, amid all his trials, the momentary oblivion imbibed with ardent spirits. No invention, however, born of the French brain and fostered in the French heart, any longer startles those who have witnessed for four years the acts of these tricksters as practiced in Mexico.

Defeat of Marquez by Porfirio Diaz—Marquez escapes—Fears entertained for Maximilian.

VERA CRUZ, *April* 13—p. m.

The latest news just before sailing is the defeat of Marquez. He had succeeded in making his way out of Queretaro, and had stolen into Mexico city, raised a forced loan of $400,000 and four thousand men. He had immediately marched to the relief of the garrison of Puebla. Porfirio Diaz, hearing of it, had hastened its capture, shot its officers, and immediately passed out to meet Marquez, who was approaching from Apozaco with four thousand men and the money raised in Mexico.

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Diaz met him, and in the engagement whipped him, capturing the money, guns, ammunition, &c.; but Marquez escaped.

The general impression among the liberals is that Maximilian is attempting to escape from Mexico, and that he will not succeed; but that a fate similar to that of the sixty-three officers at Puebla awaits him. Will not the United States government suggest moderation and leniency to Juarez? or we may be compelled to rank the Mexican (where he, perhaps, as a race properly belongs) among the barbarians.

The Austrian vessel of war Elizabeth still awaits Maximilian.

More about the capture of Puebla—Reinstallation of liberal authorities in that city—Liberal troops sent after Marquez—His return to the capital cut off—The southern line of the city of Queretaro in liberal hands—An American pressed into imperial service—Max decorates him for his activity, &c.

MEXICO, *April* 8, 1867.

Official reports of the fall of Puebla are received, though the authorities here say that General Marquez marched into that city after General Diaz left, on the 5th of April. Puebla, attacked at fourteen different points, was taken on the evening of the 3d, and its fortifications delivered to the liberals on the 4th. Perfect order prevailed, and but few outrages.

Great rejoicings were had in San Angel on the morning of the 3d of April over the official news of the fall of Puebla. Rockets, crackers, and bells grew clamorous of the glad tidings. At once most of the constitutional forces took up their march to join the troops, who had orders to follow close on Lieutenant General Marquez, in order to co-operate in an attack made by the liberals sent to meet him. The dike of Lake San Cristobal has been cut so as to intercept his return to the capital from the plains of Afram, through which he had taken the road towards Puebla. Large bodies have been detached from the siege of Queretaro to aid in destroying Marquez, who is justly recognized as the soul of the imperial conservative party. At Queretaro the entire southern line of the city, including the "Casa Blanca," a strong point, and the Alameda, are in possession of the besiegers. These successes have been obtained at the cost of a lavish expenditure of blood, hitherto unknown in the civil wars of Mexico. Indeed, the contest is becoming relentless; even General Porfirio Diaz is reported to have hung several of the chiefs opposed to him at Puebla—whether by previous orders of President Juarez or upon his own responsibility, in view of particular circumstances of the moment, we have not yet been able to ascertain.

Mexico continues in a state of isolation. No mails come or go; what is brought into the city is at the risk of some adventurous American, who, with the characteristic recklessness of his countrymen, ventures upon the roads with the conviction that he has a right to travel unmolested anywhere on the continent of America. One of these independent travellers was embargoed on his route from the capital to Texas, with his wagons and teams, into the service of his imperial majesty Maximilian, who, pleased with his energy and intelligence, appointed the man from Connecticut chief of the transportation department and decorated the wide-awake republican with the cross of the "Order of Guadalupe" at the moment an assault and entrance into a besieged place occurred. The constitutional authorities have been reinstated under General Garcia as governor of the State of Puebla. Marquez, lieutenant general of the empire, will require all the energies of which he boasts to extricate his army and silvery convoy from the perilous position he now occupies, for the waters of the Lake San Cristobal, and swarms of liberals, are rushing in upon him, and unless he escapes to-morrow before Diaz brings up his forces from Puebla and the troops

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detached from Queretaro close about him in the rear, we shall be under the painful necessity of reporting a lost lieutenant general buried in the noisy ruins of an empire.

The authorities are resorting to every measure known in Mexico to suppress the truth as to the fall of Puebla. Letters are searched for, opened and retained upon the slightest suspicion. Others are published, whose contents throw the least doubt upon the fact; and where flattering paragraphs cannot be wrested from the true tenor of a letter, they are manufactured, for the purpose of keeping alive the illusion of the government party and depressing the morale of the liberals. A fair specimen of these imperial arts is taken from the Diario del Imperio, of Saturday, the 6th of April. It is given in a column headed "Not official:"

"PUEBLA.

"The most excellent General Marquez entered Puebla with his cavalry on Thursday, the 4th instant, at one o'clock in the morning, D. Porfirio Diaz having raised his camp at 10 o'clock on the night of the preceding day. From reports worthy of credit it is known that D. Porfirio Diaz and D. Juan José Baz were grievously wounded by the falling of a wall, and that the former took the road toward Tlaxcala, whence messengers were sent in search of physicians and instruments for an amputation."

As long, however, as we can keep the most excellent general cornered at "San Nicolas," on the other side of the waters of San Cristobal, where positive information places him, with hundreds of liberals surging about him, the Diario del Imperio can flirt with falsehood. The editor no doubt fulfils his contract with the government, while destiny patiently awaits the fulfilment of that entered into between Time and the Empire.

WASHINGTON, *July* 12, 1867.

SIR: Permit me to suggest the propriety of an alliance between the United States and Mexico, for mutual protection against invasion and rebellion. Such an alliance was proposed by me to our government at the beginning of the slaveholders' rebellion; but an inordinate confidence in our strength and the supposed weakness of the rebels—from which was predicted a speedy termination of the war—prevented its adoption. If adopted, the rebellion would have been suppressed during the first year. With the United States and Mexico combined, the preponderance of power would have been so great that the rebels must have been compelled to lay down their arms as early as the first year. If so, then three-fourths of the loss of life, and three-fourths of the cost of the war would have been saved. Likewise, if an end had been put to the rebellion during the first year, or even the second, it would have prevented the invasion of Mexico by France, which never would have been attempted but for our rebellion, and thus the late desperate struggle of Mexico for national existence against the most powerful monarchy of Europe, and which, after such great sacrifices, has just ended so gloriously, would have been averted. As such alliance, however, was not proposed by our government, and unfortunately was not offered by Mexico, the advantages which might have resulted therefrom was lost to the two republics. But wisdom is generally learned by experience, and frequently at great cost, and often when it is too late. This favorable opportunity for mutual alliance having passed, the question is whether it would not be of great advantage to the two republics at this time and hereafter. True, rebellion has been suppressed in name in the United States, and revolution and inva-

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sion have both been defeated in Mexico; but as the causes which produced the war in both countries still exist, and, like a smothered conflagration, may be fanned into life by faction, and again break forth with like destruction, therefore it would seem to be of the first importance that every means in our power should be at once adopted, that a repetition of such awful calamities may, if possible, be prevented.

As to invasion from European monarchies, this may be expected during any internal convulsion of either of the republics. Cæsarism and monarchy are, from principle, opposed to freedom, and are therefore inherently in constant alliance against all republics; and as one alliance can only be successfully defeated by another, hence republics in self defence should form alliances against monarchy. Not only should the United States and Mexico form an alliance against invasion and rebellion, but the South American republics should also form an alliance against the same dangers.

The political and material advantages of the proposed alliance would seem to be apparent to all. It would prevent invasion, or *filibustering*, from every quarter, and suppress at once all effort of faction against the constitutional and liberal governments of both countries; and if through the greater preponderance of strength, it would amount to a protectorate on the part of the United States, in the same ratio of strength it would amount to a protectorate on the part of Mexico. In other words, the protection would be mutual, and reciprocal.

It would divert capital and enterprise to Mexico to develop her agricultural and mineral resources, and also to construct those interior and communicating lines of railroads so essentially necessary to the prosperity of the adjacent countries. It would unite us into close connection as to every interest, and especially would increase the trade between the sister republics, now so largely monopolized by England and France, and in many respects which could not even be named in a brief letter, it would result in general and permanent advantages to the two countries.

Therefore such alliance should be proposed to the people of the two republics at once, so that if approved of it may be adopted at the earliest practical moment.

Very respectfully, your obedient servant,

A. WATSON.

M. ROMERO, *Mexican Minister.*

WASHINGTON, *July* 13, 1867.

SIR: Your kind letter of to-day is received, suggesting the propriety of concluding a treaty between the United States and Mexico for mutual protection against invasion and rebellion. Such an alliance, if in other respects well arranged, would certainly be of very important results; but the complication of interests and interior difficulties of both countries would render it almost impossible to conclude it just at this moment. Nevertheless, in some near future it might be tried, if the governments of the two republics, while feeling its convenience, found themselves more free in their actions, or less embarrassed with domestic cares.

Thanking you for the interest you show for the welfare of Mexico, I am, sir, very respectfully yours,

M. ROMERO.

Mr. A. WATSON, *Washington, D. C.*

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Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, March 1, 1867.

SIR: I have the honor to acknowledge the receipt of your communication of the 26th of January last, containing an account of the situation of affairs in Mexico, which has been read with interest.

I avail myself of this opportunity to renew the assurances of my very high consideration.

WILLIAM H. SEWARD.

Señor Don MATIAS ROMERO, &c., &c., &c.

Mr. Romero to Mr. Seward.

[Translation.]

MEXICAN LEGATION IN THE UNITED STATES OF AMERICA,
Washington, January 29, 1867.

Mr. SECRETARY: I have the honor to transmit to you copies of the notes from Mr. Lerdo de Tejada, minister of foreign relations of the Mexican republic, dated in Chihuahua the 9th of December, and in Durango the 27th of the same month, numbered 544 and 545, respectively, informing me of the transfer of the constitutional government of Mexico from Chihuahua to Durango on the 10th of December mentioned, and its arrival in the latter city on the 26th.

I am pleased to have this occasion to repeat to you, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

Mr. Romero to Mr. Seward.

[Unofficial.]

WASHINGTON CITY, D. C., *January* 31, 1867.

MY DEAR SIR: Since the interview I had with you this morning, referring to the rumored execution of Mr. Carman, United States consul at Mazatlan, and the subsequent bombardment of that city by a United States gunboat, I have again examined carefully the telegraphic despatches from New Orleans of January 28, and from San Francisco of January 29, instant, which I enclose in slips herewith.

From these it will appear that, under the most favorable circumstances, no advices could be obtained from Mazatlan and reach the city of Mexico prior to the 15th of January, allowing the extremely short time of six days to come from Mazatlan to the city of Mexico; while direct dates received at San Francisco from Mazatlan of January 18 contradict the rumor. I cannot, therefore, give credit to the story, and believe it to be a fabrication, like the reported shooting of General Escobedo a short time ago.

Should I receive anything more definite relating to the subject I will hasten to communicate it to you. Meanwhile, hoping that no such unfortunate affair has occurred, I renew to you my sincere regards.

Very respectfully, your obedient servant,

M. ROMERO.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

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Mr. Romero to Mr. Seward.

[Unofficial.]

WASHINGTON, *February* 1, 1867.

MY DEAR SIR: Having sent yesterday a telegraphic despatch to the Mexican consul at San Francisco, California, asking for reliable information on the reported execution of Mr. Carman and bombardment of Mazatlan, I have just received an answer denying those rumors. I enclose to you for your information a copy of that answer.

I am, sir, very truly, your obedient servant,

M. ROMERO.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

Mr. Godoy to Mr. Romero.

[San Francisco, California, dated 1st.—Received February 1, 1867—1.50 p. m.]

Señor Don MATIAS ROMERO, *Mexican Minister:*

The news false. I have letters from Mazatlan of January 19.

J. A. GODOY.

WASHINGTON, *February* 1, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

Mr. Romero to Mr. Seward.

WASHINGTON, *February* 5, 1867.

MY DEAR SIR: I take the liberty to call your attention to the enclosed account of what occurred at a meeting in the city of Mexico on the 14th ultimo, to decide whether the ex-Archduke Maximilian should continue to uphold his so-called empire or not.

In my opinion this call shows the want of confidence in the project to convoke a national assembly or convention to settle the above question, and that it is the general belief that the so-called empire cannot be sustained, for the assembly was composed of the counsellors and ministers of Maximilian, together with a few other persons favorable to Maximilian, and one-third of them voted against trying to sustain the empire.

I remain your attentive and obedient servant,

M. ROMERO.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

Mr. Romero to Mr. Seward.

[Translation.]

MEXICAN LEGATION IN THE UNITED STATES,
Washington, February 10, 1867.

MY DEAR SIR: As a new proof of the interest which the government of the Mexican republic took in the triumph of the cause of the Union during the late

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civil war in the United States, I transmit to you the copy of a document which reached me recently, and which contains a proposal, made on the 29th of April, 1864, by Mr. José M. Iglesias, minister of finance of the Mexican republic, to Major General F. J. Herron, then in command of the United States forces in Brownsville, to close the port of Matamoras to foreign commerce, so as to prevent the export of Texas cotton by the confederates, and receiving in exchange the articles they needed to carry on the war against this government.

Although the proposal was not accepted, and has little interest now, I think proper to give information of it to the government of the United States for reasons above given.

Yours, most respectfully,

M. ROMERO.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

MATAMORAS, *April* 29, 1864.

SIR: Although I have no instructions from the President, and am not authorized by him to enter into arrangements in regard to the affair treated of in this letter, I have thought proper to put in writing the terms upon which it might be settled, in my opinion, taking as a basis the discussion that occurred in our conversations.

As the right of the Mexican government to prohibit, when it pleases, the importation of any goods whatever into its territory is clear and explicit, it would be no violation of neutrality, which it wishes to preserve, to prohibit the introduction of foreign cotton as soon as the specified term of thirty days shall have expired, which is given to afford time for the decree to reach the knowledge of those concerned.

But, laying aside the discussion of a right I have termed clear and explicit, it is evident the exercise of it would be condemned by those interested on one side, while it would deprive the Mexican treasury, on the other, of one of the most profitable entries it enjoys at this critical period.

Nothing is more reasonable then than a mutual compensation, and certainly it will not seem extravagant to ask a million of dollars and twenty thousand muskets in an affair of this importance. This indemnity for the loss of a considerable revenue is of small import to the treasury of the United States, and is a circumstance that should be taken into consideration.

The advantages the United States would derive from such an arrangement are important and too evident to need demonstration. A decree issued by the Mexican government would entirely stop the trade in cotton, while all the forces sent to guard the frontier could not do it along the vast course of the Rio Grande. Supposing it feasible to guard an extent of border which you, general, reckon at four hundred miles, it would be much better to spare the troops that great labor and employ them in some more profitable duty. And it would be well to consider the great saving to the federal treasury by the proposed arrangement.

The great interest that you and Generals McClernand and Hamilton have taken in this cotton business induces me to hope my suggestion may be adopted, as it will bring about the desired results without the legal inconveniences presented by the project of seizure and confiscation.

The Mexican government certainly desires to increase the friendly relations that bind it to the United States, because the two nations must live in friendship; and whatever tends to that noble end ought to be constantly encouraged; and this is one more advantage in the projected combination.

I beg you, general, to communicate it to your government, and I will do the same towards mine, so that, in case of approval, the plan may be executed with the customary formality.

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I am pleased to have this occasion to say, with much respect, I am your most attentive and obedient servant,

JOSÉ M. IGLESIAS.

Major General F. J. HERRON.

WASHINGTON, *February* 10, 1866.

A true copy:

IGNO. MARISCAL, *Secretary.*

Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, March 1, 1867.

SIR: I had the honor to receive your esteemed note of the 10th ultimo, in which you transmit a copy of a document containing a proposal made in 1864 by the minister of finance of Mexico to General F. J. Herron, then in command of the United States forces at Brownsville, to close the port of Matamoras to foreign commerce, so as to prevent the exchange by the late rebellious States of their cotton for munitions of war. Though the offer and the cause for it have passed, the United States government cannot but appreciate this additional evidence of sympathy from the government of the Mexican republic.

I avail myself of this opportunity to renew the assurances of my high consideration.

WILLIAM H. SEWARD.

Señor Don MATIAS ROMERO, *&c., &c., &c.*

Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, February 22, 1867.

MY DEAR SIR: I had an understanding with Mr. Gana, the chargé d'affaires of Chili, that I was to present him to the President this evening. Circumstances which have since happened will compel me to forego that pleasure. I pray you, therefore, to act in my behalf, and to attend the President's levee this evening for that among other purposes, being sure that Mr. Gana could not be introduced to the President under better auspices.

I am, my dear sir, very truly yours,

WILLIAM H. SEWARD.

Señor Don MATIAS ROMERO, *&c., &c., &c.,*
Washington, D. C.

Mr. Romero to Mr. Seward.

[Translation.]

WASHINGTON, *February* 22, 1867.

MY DEAR SIR: In response to your kind note of this day's date, in which you tell me that it is not possible for you to present this evening to the President Mr. Blest Gana, chargé d'affaires from Chili, and request me to do so in your name; I am happy to say that I shall do so with much pleasure, and shall deem it

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a high honor to represent your person for this object. Having already expressed to you the pleasure with which I lend myself to this slight service to Mr. Gana,

I remain, as ever, your most obedient servant,

M. ROMERO.

Hon. WILLIAM H. SEWARD.

Mr. Romero to Mr. Seward.

[Translation.]

WASHINGTON, *March* 16, 1867.

MY DEAR SIR: I have the honor to send to you a collection of documents upon the affairs of Mexico, which the French government laid before the legislative body at the opening of its session on the 18th February last past, taken from No. 53 of the Moniteur Universel, corresponding with the 22d of February aforesaid.

I am, sir, respectfully, your obedient servant,

M. ROMERO.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

[From the Moniteur Universel, of Paris, February 22, 1867, No. 53.—Translation.]

EXPOSÉ OF THE CONDITION OF THE EMPIRE.

In the United States the work of constitutional reconstruction continues. France sincerely applauds the wonderful activity with which that great nation is repairing the calamities of civil war. In the condition of the relations which exist between the different countries of the globe, the sufferings which are produced at one point are necessarily felt at all others. We have experienced the shock of events which have disturbed the Union, and we are profiting by the revival of its industry and commercial energies. No subject of disagreement exists at this moment between the two countries; on the contrary, everything is contributing more and more to bring them nearer to each other in their policy. His Majesty has received on a recent occasion the assurance of sentiments of friendship which were expressed to him in the name of the United States, and which correspond perfectly with our own feelings. We take pleasure in arguing favorably as to the future relations of the two governments in respect to the different questions on which their interests may be found to coincide.

We need not recur at this time to the necessity which caused us to undertake the expedition to Mexico. We sought the redress of grievances of every description, and the denials of justice from which our people had suffered for many years, and, animated by the generous sentiment which will always induce France to render her intervention useful wherever she shall be led to carry her arms, we did not refuse to unite in an attempt at regeneration by which all interests would have profited. But in lending its co-operation to this work the government of the Emperor had, beforehand, assigned a limit to its sacrifices, and the Emperor had fixed the end of the present year as the extreme term of our military occupation. The evacuation was to have been made in three detachments, the first leaving in the month of November, 1866, the second in March, and the third in November, 1867. These arrangements, conformable to our previous intentions, had been made in the fulness of our liberty of action, and anything which had partaken of the nature of external pressure could only have placed us in the position, in spite of ourselves, of prolonging a state of

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things which we wished to abridge. Reasons arising out of our military situation determined the Emperor to modify the first arrangements by substituting for a partial evacuation, at succeeding periods of time, the simultaneous transportation home of our whole *corps d'armée* in the spring of the present year. These measures are now in a course of execution, and in the course of March next our troops will have left Mexico.

Far from desiring to free itself from engagements which it had contracted on its own account, and which it has publicly announced, the government of the Emperor will thus hasten their fulfilment.

No. 1.

Mr. Drouyn de Lhuys, minister of foreign affairs, to Mr. Dano, minister of France to Mexico.

PARIS, *April* 14, 1866.

SIR: I have received the despatches which you did me the honor to write to me up to the date of the 10th of March, as well as your telegram of the 13th of the same month. Baron Saillard has furnished me, on his part, with all the information he could get from Mexico.

Your language to the Mexican government, and the attitude you have observed in these recent circumstances, have been in perfect harmony with the views and intentions of the government of the Emperor. The periods at which our gradual evacuation is to take place are definitely fixed: they seemed best, in Marshal Bazaine's opinion, in accord with our desire, to proceed prudently in the operation. Once determined upon, it was our duty to make it public. The *Moniteur* has accordingly announced officially the departure of our troops from Mexico, to begin this autumn and continue till the spring of 1867, and finish in November following.

Marquis of Montholon, French minister in Washington, to the minister of foreign affairs.

WASHINGTON, *May* 1, 1866.

Mr. MINISTER: I have the honor to transmit to you herewith a copy of the despatch which the Secretary of State addressed to me, in reply to the letter of your excellency, dated the 5th of April last.

This answer, which is in a friendly tone, appears to close all serious discussion of the question, though it closes with a suggestion that reveals apprehensions of trouble from the presence of French troops that are to remain in Mexico seventeen months longer.

Accept, sir, &c.

MONTHOLON.

No. 2.

Mr. Seward to Mr. Montholon.

DEPARTMENT OF STATE,
Washington, April 25, 1866.

SIR: Having submitted to the President the copy of the despatch of Mr. Drouyn de Lhuys of the 5th of April, with which you favored me on the 21st instant, I have now to give you the views of this government thereupon.

It is with very great satisfaction that I find that the two governments of the

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United States and France have come to an agreement in regard to the present military intervention of France in Mexico.

This agreement I understand to be of the effect following, namely: The French military forces in Mexico will be withdrawn from that country in three separate detachments, the one to leave in November next, and the two others to leave in March and November, 1867.

On our part all the sentiments heretofore expressed concerning the principle of non-intervention are now with cheerfulness re-affirmed. I reciprocate cordially on behalf of the United States the desire and the hope upon which Mr. Drouyn de Lhuys so pleasantly dwells, of a cordial renewal of the traditional friendship which constitutes an important element of the life of the American people, and which, while it is full of promise to the progress of civilization, is at the same time so highly honorable to the intelligence and love of freedom of both nations.

I am well aware that so large an army as that which the French Emperor now has in Mexico could not be conveniently withdrawn in a day, or in a few days, or all at once.

I can also apprehend, as I think, that it might not be altogether expedient for the French government to designate in advance the proportions which may be expected to be given to the several detachments, respectively, on their embarcation.

On the other hand, I think it due to the frankness and sincerity which is required by the occasion to suggest that the continuance of the intervention during the period limited will necessarily be regarded with concern and apprehension by the masses of our people and perhaps by Congress. Under these circumstances our army of observation must also be continued in some proportion on the northern bank of the Rio Grande. This situation will be not altogether conformable with our national sentiments and habits. Moreover no one can certainly reckon upon the exercise of so much prudence on the part of the commanders and forces confronting each other across a boundary as to remove all fear of unpremeditated disturbances and collisions. Therefore the more promptly the intervention shall be brought to an end, the sooner and the more complete will be the return of the cordial good feelings which both governments so earnestly desire.

It seems to me not improbable that France, having determined upon the complete withdrawal of her forces from Mexico, within the term of seventeen months, may hereafter find it convenient and consistent with her interest and honor even to abridge that term. Should this expectation be realized, it is not doubted that the Emperor will be as highly gratified as the United States with the new situation.

Accept, sir, a renewed assurance of my very high consideration,

WILLIAM H. SEWARD.

Marquis DE MONTHOLON, &c., &c., &c.

No. 3.

The minister of foreign affairs to the minister of France at Washington.

PARIS, *June* 7, 1866.

MARQUIS: In your despatch of the 1st of May, I find the Secretary of State's reply to the note I wrote you on the 5th of April. In it Mr. Seward admirably explains the nature and extent of the communications interchanged by the two governments in regard to the evacuation of Mexico by the French troops. His assurance, in the name of the cabinet at Washington, that he will not depart from the principle of non-intervention, already affirmed, fully satis-

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fies us, and leaves no doubt of his firm will to maintain neutrality after the withdrawal of our soldiers. In regard to the concluding observations of the Secretary of the United States, you will see they can have no influence on the delays and conditions of the departure of the troops. The cabinet in Washington cannot expect us to make other declarations on this subject than those we have already voluntary given in our initiative. In withdrawing its forces from Mexico, it is the duty of the government of the Emperor to take all needful precautions for the health and safety of its soldiers. Mr. Seward knows this himself; and I see nothing in what we have done to arouse the suspicions of the United States. If, however, the federal government chooses to keep an army of observation on the Rio Grande, we have nothing to say against it, useless as it may appear to us. But I cannot share Mr. Seward's opinions in his want of confidence in the sentiments and prudence of the commanders of the respective forces placed opposite to each other on that frontier. There is no danger of a disturbance on our part; and if the commanders of the federal forces have positive instructions from their government, and will be held accountable for their observance, all danger of a conflict will certainly be removed. I see no contradiction between the fears expressed by Mr. Seward and the excellent terms of his reply to our sincere hope and great desire to see a new consolidation of the good relations which have existed so long between France and the United States.

Accept, &c.

DROUYN DE LHUYS.

No. 4.

Marquis de Moustier, minister of foreign affairs, to the French minister at Washington.

PARIS, *October* 16, 1866.

MONSIEUR LE MARQUIS: The correspondence of my predecessor has sufficiently explained to you the views entertained by the Emperor in regard to Mexico. I believe, nevertheless, it to be useful, while writing to you for the first time, to once more inform you of the true state of affairs, so as to leave no doubt in regard to our resolution. Some time since, as the Washington cabinet has been officially informed, his Majesty fixed the end of the year 1867 as the extreme term of our military occupation of Mexico. This term will not be prolonged; on the contrary, it is our desire rather to shorten it as much as possible. The government of the Emperor, as my predecessor wrote to you on the 7th of last June, has reserved to itself the right to take all necessary precautions in regard to the health and safety of our army. This is a matter to us of prime interest, which under no circumstances can be lost sight of. At the same time recent despatches from Mexico reveal to us a state of affairs which necessarily create on our part a good deal of solicitude. Armed resistance is increasing. Republicans are showing themselves in force in various parts of the Mexican territory, and at any moment the mode of successive evacuation originally decided upon might place our soldiers in a difficult situation if we permitted them to remain in small isolated groups at such a great distance from Europe. Thoroughly impressed with the danger consequent on such a situation, the Emperor has sent his aide-de-camp, General Castelnau, to Mexico, in order to come to an understanding with the emperor Maximilian as to his intentions, and to communicate ours.

Mr. Castelnau has received instructions to inform Maximilian that we have reached the limit of our sacrifices, and that if the emperor thinks that he can find sufficient support in Mexico, and intends to maintain himself there, he cannot in future rely upon any aid on the part of France. It may be that, judging it

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impossible to triumph unaided over the difficulties which beset him, *this sovereign may determine to abdicate. We will not seek to dissuade him from such a course. We think that, under such circumstances, an opportunity will offer to proceed by election to the establishment of a new government.*

You will see that, under these conditions, it is just now quite probable that our entire expeditionary corps may return to France about the spring of the coming year. This probability, it seems to us, cannot fail to be received in the United States with real satisfaction. To suppose the contrary it would be necessary to admit that the *Mexican question furnished to the various parties the means of cheap popularity which they would regret to lose.* We have too much confidence in the good sense of the American people, and its old sentiments of friendship towards France, not to be convinced in advance that unfounded suspicions and inadmissible exigencies will not change between the United States and ourselves those relations which are about to become more friendly, even on account of the decision we believe it to be our duty to take in regard to the present matter. We take it in the fulness of our free action, which we must maintain until the last. This reservation is imperatively demanded by the requirements of our dignity. All that might have the character of a pressure, which could not be listened to when coming from a foreign government, *would result in forcing us against our will to prolong a state of affairs which our well understood interests have caused us to curtail.* It is impossible that this situation should be otherwise than thoroughly understood in Washington, and it will, no doubt, do all in its power to prevent the arising of any incident that might tend to a disagreeable result.

You will, if necessary, assume a determined and yet conciliatory tone, and I leave it entirely to your judgment what use you shall make of this despatch.

Receive, &c.

MOUSTIER.

No. 5.

Minister of foreign affairs to the minister of France at Washington.

PARIS, *November* 8, 1866.

MARQUIS: The United States envoy came to see me a few days ago. He mentioned the many newspaper reports upon the evacuation of Mexico by our troops, and expressed a fear that this change in the mode of evacuation might not effect the Emperor's decree. I told Mr. Bigelow that what he heard was about true; that our forces were concentrating for the purpose of leaving all at once; that he had nothing to apprehend from a military order purely practical; and I added our troops would all get back by next spring. Mr. Bigelow remarked that this would effect the first departure fixed for November next. I told him by sending the troops away altogether the evacuation would be sooner effected; and that the cabinet at Washington, so far from feeling any concern about it, ought to be pleased to see a combination, the result of which was to hasten the term of our occupation.

Accept, &c.

MOUSTIER.

No. 6.

The minister of France at Washington to the minister of foreign affairs.

WASHINGTON, *November* 5, 1866.

MARQUIS: As I informed your excellency, General Sherman goes with Mr. Campbell to Mexico. He had been ordered to New Mexico, but a telegram re-

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calls him to Washington to-morrow. I learn also that a steamer from New York will soon be ready to take Mr. Campbell and his suite to some point on the Mexican coast. Mr. Sherman, as your excellency is aware, is not only a distinguished military man, but a considerable politician, which shows the importance of the mission with which he is charged in the eyes of the cabinet, and the circumstance is calculated to insure the success of the mission. Such is the reason given by the Assistant Secretary of State, who directs affairs in Mr. Seward's absence, in my interview with him this morning, when I asked him why a minister was sent to a country still occupied by our troops, and which he could not enter without coming in contact with the commanders of our land or sea forces. Mr. Hunter seemed very confident on this point, and assured me again of the formal intention of the American government to avoid any measure of a nature to bring about a disagreement with France.

MONTHOLON.

No. 7.

The French minister at Washington to the minister of foreign affairs.

WASHINGTON, *November* 15, 1866.

M. LE MARQUIS: I have received the despatch which your excellency honored me with on the 16th ultimo, and have not failed in my conversation with the Secretary of State to make use of the information which it contained in regard to the object of the mission intrusted by his Majesty to General Castelnau, as also in regard to the manner in which his Majesty's government intended to conduct the evacuation of the Mexican territory. The probability of seeing the time of our occupation shortened was received by Mr. Seward with a satisfaction which I believe to be the more sincere in that he has never hesitated to affirm, in the presence even of doubts often raised by others surrounding him, entire confidence in the ultimate accomplishment of the assurances given in regard to this matter. He has often spoken on the subject to me, and only recently, when communicating to me the instructions given to MM. Campbell and Sherman, which I have transmitted to your excellency, he again expressed to me the hope to see disappear with the departure of our troops the only question which disturbed the good relations between France and the United States.

While fully appreciating the value of these friendly sentiments, I could at the same time scarcely refrain from calling his attention to the *contrast which this mission seemed to establish between the conduct of the French and American governments.* The latter taking advantage of a doubtful moment as an opportunity to make a demonstration, and that at a time when it had received assurances of efforts made by us to hasten the execution of our engagements. It was to be feared that the mere act of sending a mission to Mexico at such a moment, and a selection for this mission of the general commanding the military and naval forces of the Mexican frontiers, would provoke in France, if not doubts as to the good faith entertained by the cabinet at Washington, at least misgivings from a political and military standpoint.

The Secretary of State replied to these apprehensions by pointing to the pacific character of Mr. Campbell's instructions, which Mr. Bigelow has been ordered to communicate and explain to your excellency. He at the same time asserted that a necessity existed for the United States to watch, to a certain extent, the situation in Mexico after the departure of our troops. *This last reason, though not in strict conformity with the principles of non-intervention, has, nevertheless, a practical value which it would be impossible to misconstrue.* What, nevertheless, must reassure us as to the ultimate results of this mission is the well known disposition of the majority in Congres to refuse its support to any measure touch-

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ing to cause the foreign policy of the country to degenerate into conquest and adventures, to which at this moment the entire sentiment of the American people is opposed.

Receive, &c.

MONTHOLON.

No. 8.

The minister of foreign affairs to the minister of France at Washington.

[Translation.]

PARIS, *November* 28, 1866.

MONSIEUR LE MARQUIS: I have this instant received your despatch of the 15th of this month.

You acknowledge the receipt of the one I had the honor to write you on the 16th of October, and you inform me that Mr. Seward had received with much satisfaction the communication which you were instructed to make to him, and the announcement that our troops, which were not to evacuate Mexico till the end of the year 1867, would all leave together in the spring of the same year, from causes arising from the actual state of the country and the duties which the health and security of our army imposed upon us. Being in doubt as to whether you have given a copy of my despatch to Mr. Seward, I write you by telegraph to do so, and not to restrict yourself to a simple verbal communication.

Accept, &c.

MOUSTIER.

No. 9.

Telegram communicated by Mr. Bigelow, minister of the United States, December 3, 1866.

WASHINGTON, *December* 1, 1866.

The despatch of M. Moustier to M. de Montholon, of October 16th, will be used properly and in a friendly manner.

WILLIAM H. SEWARD.

JOHN BIGELOW, Esq., *&c., &c.*

No. 10.

The minister of foreign affairs to Mr. Bigelow, minister of the United States in Paris.

PARIS, *December* 3, 1866.

SIR: The cause which has prevented the French government from commencing the evacuation of Mexico in the month of November, has been explained in a despatch of the 16th of October, addressed by the minister for foreign affairs to M. de Montholon. The purport of that despatch has been communicated to Mr. Seward. The latter had seemed to be satisfied with the declarations which had been made to him by our representative. I am therefore surprised at the misunderstanding of which you spoke to me.

The intentions of the French government are not changed; but, owing to military considerations, it has deemed proper to substitute the return to France

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of our troops, in a body, to their withdrawal in detachments, and our corps of occupation will embark in the coming month of March. I have to add that the French government is fully disposed to have an understanding with that of the United States in view of the eventualities which may arise in Mexico.

Accept, &c., &c.

For the minister for foreign affairs, now absent, and by authority—

LA VALETTE.

No. 11.

The minister for foreign affairs to Mr. Berthamy, minister of France at Washington.

PARIS, *December* 5, 1866.

SIR: As you are aware, the minister of the United States has been instructed by his government to bring to our notice the subject of the new arrangements made for the return of our expeditionary corps from Mexico, and he has expressed to us the regret that they had not been officially notified of it at Washington, adding, furthermore, that he did not see in this aught but a misunderstanding susceptible of an explanation satisfactory to both parties. In order to do away with this misunderstanding the government of the Emperor has not hesitated to give the orders to the Marquis de Montholon to officially inform Mr. Seward of the instructions which I had addressed to him under date of October 16, and a copy of that despatch has likewise been handed to Mr. Bigelow. Desirous, moreover, to fully enlighten the cabinet of Washington respecting our intentions, we have also transmitted to the envoy of the United States the accompanying communication; the assurances which it contains are conformable to those contained in my despatch of the 16th of October to M. de Montholon, which I had besides already developed on the 1st of November last, in a conversation with Mr. Bigelow, of which you will find a statement in my despatch of the 8th of November to your predecessor. As I then said, if we have been obliged to defer our departure, it has been from considerations purely practical. In order to guard the security and health of our troops, we have substituted a return in a body for partial withdrawals; but neither our policy nor our intentions have changed, and the return of our expeditionary corps will be effected at the beginning of next spring. You are authorized to renew the assurance of it to the cabinet of Washington.

Receive, &c.

MOUSTIER.

No. 12.

The minister for foreign affairs to the minister of France at Washington.

PARIS, *December* 27, 1866.

SIR: I took charge of this ministry on the 5th of October, and one of my first occupations was to furnish to the government of the United States friendly explanations respecting our policy in reference to Mexico. The Emperor was then at Biarritz; so soon as the return of his Majesty permitted me to ask him his orders, I addressed a despatch to your predecessor, dated the 16th, in which were stated the considerations of a nature purely military which determined us to recall our corps of occupation no longer by detachments, but all together and at one time, in the coming spring. M. de Montholon has made known the tenor of this document to Mr. Seward, and the correspondence of our representative

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at Washington shows that the Secretary of State of the United States had been satisfied with it. I should have preferred that M. Montholon should have immediately given him a copy of it; if I did not transmit him a formal order to do so, it is because at so great a distance a certain liberty of personal appreciation must be left to our agents. However, having supposed that I could infer from his correspondence that he had simply read it to him, I hasten to advise him by telegram to complete, by transmitting the despatch itself to Mr. Seward, the communication which he had only made to him verbally, but which I thought bore a character sufficiently official.

We have not, in fact, as the American agents seem to think, the habit of not attributing that character only to written notes, and I will remark in passing that the persistence which they show in wishing to treat in that form all affairs, has, in practice, some real inconveniences. The moment Mr. Seward had received favorably the announcement of our resolutions, I could not suppose that some days thereafter, without informing the minister of the Emperor at Washington of it, he should have instructed Mr. Bigelow to raise here objections to the manner of evacuation adopted by us.

Were these objections otherwise very serious? The important point for the government of the United States was to know when its liberty of action should be returned to it, that is to say at what time the last French soldier should quit Mexico. The date of the first departure was altogether a secondary matter, and a delay upon that subject could give rise, at most, to the expression of some fears in reference to our new intentions, and those fears, besides, were removed of themselves in view of our spontaneous explanations. It was only on the 28th of October that Mr. Bigelow came to make his verbal observations to the government of the Emperor. They were probably caused by instructions from his government; but these instructions, which were not destined to be communicated to us, have remained entirely unknown to us. We have only had, in order to answer the minister of the United States, to place before his eyes the despatch of the 16th of October.

In the mean time, M. de Montholon having left the original of that despatch in the hands of the Secretary of State, Mr. Seward, satisfied with that communication, which made known nothing new to him, but which, in his view, he perhaps considered as a necessary formality, hastened to send a telegram to Mr. Bigelow, which that agent made known to us on the 3d of December, and is thus worded:

"WASHINGTON, *December* 1, 1866.

"The despatch of M. Moustier to M. de Montholon, of the 16th of October, will be used properly and in a friendly manner.

"WILLIAM H. SEWARD."

It was therefore perfectly established between the minister of the United States and ourselves that at that moment there was no longer any subject of misunderstanding between the two governments, and Mr. Bigelow then wrote to his own government that our language could not authorize any doubt as to our intentions. This took place some days prior to the meeting of Congress. There was therefore no reason why, among the documents submitted to the federal representation, a despatch of the 23d of November to Mr. Bigelow, should be made to figure—a despatch which, as I have stated above, was not intended to be communicated to us, has not been communicated, of which we have not been enabled to refute (which would have been very easy) the arguments, in the main not very equitable, and not very obliging in form, and which, in any event, at the moment it was inopportunely made public, had no cause to exist.

I do not further insist upon this incident, the causes of which, perhaps local, escape me, and which must be consigned to oblivion, now that the relations between the two governments tend to become more and more cordial and amicable.

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The speech of General Dix at his audience of reception, has given still more strength to the character of our relations with the United States. The Emperor has been entirely satisfied with it, as the reply of his Majesty proves, and I can do no less than to encourage you again to foster these good dispositions.

Receive, &c.

MOUSTIER.

Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, March 25, 1867.

SIR: I have the honor to acknowledge the receipt of your communication of the 16th instant containing certain documents taken from the Moniteur Universel, relating to Mexican affairs, which the French government laid before the legislative body at the opening of the late session, for which be pleased to accept my thanks.

I avail myself of this occasion to renew to you, sir, the assurances of my high consideration.

WILLIAM H. SEWARD.

Señor Don MATIAS ROMERO, *&c., &c., &c.*,
Washington, D. C.

Mr. Romero to Mr. Seward.

[Translation.]

WASHINGTON, *March* 23, 1867.

MY DEAR SIR: I remit to you for your information a printed copy of the official report which General Escobedo, commanding in chief the army of the north of the Mexican republic, sent to the minister of war and marine from San Felipe on the 7th of February last past, of the important victory he obtained on the 1st at San Jacinto, against the rebel forces which attempt to sustain the usurpation of the ex-archduke of Austria, Don Fernando Maximilian, whose forces were commanded by Don Miguel Miramon.

I have the honor to be, sir, your very obedient servant,

M. ROMERO.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

[Supplement to No. 11.—Translation.]

THE SHADOW OF ZARAGOZA.

SAN LUIS POTOSI, *February* 11, 1867.

To satisfy public desire, and to avoid errors and false appreciations, we publish this day the general report of the battle that took place at San Jacinto, on the 1st instant. To appreciate the worth of the labors undertaken in that hasty campaign, it is necessary to explain some of the difficulties that preceded it, and to manifest, in passing, the hopes and sentiments of which the soldiers of the republic find themselves possessed.

As soon as the city of San Luis was occupied by a division of the corps of the army of the north; while portions of it camped at different distant points,

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and at the time that the headquarters with the reserve division were moving towards the interior, news was brought of an expedition of traitors, who proposed to invade the States already occupied by the independent forces; this made it necessary to move the headquarters to San Luis, leaving the artillery in the rear, with munitions, armaments, and equipage to be used to meliorate the condition of the suffering and valiant troops that, for long months filled with privations and in incessant fatigue, had no stimulus but patriotism, nor more consolation than that of giving liberty to their fellow-citizens.

Four days had scarcely passed after General Escobedo's arrival in this capital, when it was found that the enemy was advancing upon it with one of his divisions, under the command of Don Severo Castillo, and that another, under Don Miguel Miramon, was marching in the direction of Zacatecas. The ninety or one hundred hours that had passed after the arrival of the commander and his staff did not afford time to concentrate and reorganize the different sections of the northern army corps, which, as I have already said, were scattered at divers points; so it was found necessary to arrange the campaign with the force disposable in those moments, stationing one division in front of Castillo, another in the town, and a third in observation of the enemy on the road to Salinas, and the last destined to give aid to Zacatecas.

In these rapid combinations and movements we do not know which to admire most, the activity of the chiefs, who doubled their energy, or the discipline and perfect organization. The result to them could not be doubtful. Miramon was caught, whipped and routed, according to the custom which he acquired in the last battles given in favor of the constitution and reform; and Don Severo Castillo, in his disastrous retreat, is the most efficacious proof that the intrepid soldiers of the republic will now have hard work to find an enemy with whom to fight.

Thus closes this day the campaign of the insensate Miramon, who, as facts demonstrate it, in his voyage to Europe, so far from learning how, forgot how to fight; losing what little self-esteem and dignity was left him at the same time; and now the republican forces, under the powerful nucleus of the northern army corps, will have ample time and means to reorganize. And in fact, at this hour the united troops of the States of New Leon, Coahuila and San Luis Potosi, Durango and Zacatecas, Aguas Calientes, Guanajuato and Queretaro are actually in motion, and very soon, with a total of more than fifteen thousand men of which they are composed, will undertake their march towards the profaned city of Mexico, to plant there in a manner imperishable the labarum of national independence. This flourishing army, formed of all the valiant, who without truce have contended against the French and traitors, trusting not so much to the number and supreme quality of their arms as to the irresistible impulse with which they have known how to reconquer liberty for the oppressed people.

In regard to the northern army corps, we are pleased to say that, from its intrepid leader to its lowest soldier, they all long to see the city of Mexico, to make it the field of honor for the supreme national government, that ought to be received and guarded there by public opinion and the love of freemen. Thus the severe watchword being given to this army corps, whose spirit is communicated to all the forces that join it from the different States of the republic, it expects to rest only a few instants in camp, then to march with the same valor, with the same abnegation, and in better harmony, if possible, wherever the supreme government may think its presence necessary to consolidate public order once forever, contribute to the reorganization of the country, and plant its standards on the frontier and in the ports, where the best soldiers will be left to serve them for a guard, and the rest, returning to the quiet labors of the field and arts, will remain there as an example and basis of republicanism and of free democracy.

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MEXICAN REPUBLIC—NORTHERN ARMY CORPS—GENERAL-IN-CHIEF.

At headquarters of the army corps under my command, established in the city of San Luis Potosi, I received notice that the enemy had evacuated the city of Queretaro in two strong columns, one under the command of Don Miguel Miramon, and the other under the command of Don Severo Castillo, by distinct roads, and both in the direction of the line formed by the place where I find myself and the city of Zacatecas. It may be the enemy feigned a march on Zacatecas, in order to oblige me to give up my headquarters to aid that city, and at the same time to make an advance on me with one of his columns and to attack me in flank with all his forces, while I was weakened by assistance sent to Zacatecas; he might likewise march upon this place with one of his columns, pretend to attack San Luis Potosi with the other, and go to join the other column, by way of Ojuelos, Campos, and Cienaga Grande, to attack Zacatecas with his entire force before mine could come up; and he might, in fine, with both columns, march upon both of the said places. Anticipating these events, I took the precautions to be ready for all eventuality. I ordered General Rivera, with his brigade of 600 cavalry, to station in this town; the cavalry brigades of 1st Coahuila and 2d Nuevo Leon, with forces both of 600 men, in the hacienda of S. Bartolo; and General Rocha, with 1,000 of the three arms of the 2d division of this army corps, at San Francisco. I appointed the citizen General Leon Guzman, governor of the State of Guanajuato, to the chief command of all these forces, giving him instructions to place General Rivera in front of Castillo's column, to observe its movements, and, if it took the road to San Luis Potosi, to attack its rear, General Guzman falling back, with all the other forces, to wait for a battle in the town of San Luis; that the same should be done if the enemy took the road by Gallinas to said town, and if he kept on to Zacatecas, General Rivera should give notice of his movements to that city, and the forces of these headquarters on his right flank; and that General Guzman, with the other forces, should harass him in the rear. The town of San Luis, thus covered from any surprise, the manner of annoying the column of Don Severo Castillo being arranged, in case he should go to the aid of Don Miguel Miramon, and learning from my explorers that the latter would certainly march on the town of Zacatecas, I ordered my second and general-in-chief of said division, C. Geronimo Treviño, with 2,500 men of the three arms of the 1st division of this army corps, to go to the aid of that place. In the town of Mesquitic, five leagues from San Luis Potosi, I ordered to be stationed the section of this cuartel general, composed of 1,000 men, and commanded by the citizen General Francisco Arce, so that he might opportunely go where wanted, whether to defend the plaza of San Luis, or re-enforce General Treviño. I learned by a message sent me by this chief from the Salinas del Piñon that the city of Zacatecas had fallen into the power of Miramon, and I set out instantly to put myself at the head of his forces, forcing on one day's journey as far as Espiritu Santo, with the forces I had stationed in Mesquitic, and I went on to Salinas del Piñon Blanco, where I overtook the citizen General Treviño. I left the town of San Luis under the care of the commanding general of the artillery of this army corps, citizen General Francisco Paz, thinking to advance myself rapidly on Miramon, to prevent him from getting supplies, which, if he had time, he could get from Zacatecas, or hinder his union with Castillo, in which case I would not be able to beat him in detail.

At Salinas del Piñon I waited for the forces I had brought as far as Espiritu Santo. From there I went a day with all of them to the hacienda del Carro, taking this road as the central of the three that lead to Zacatecas, so that if Miramon left the town to avoid a fight and join Castillo's column, he could not do it without meeting me, or encountering me in some of the cross-roads. At

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that hacienda I organized the entire force, consisting of 1,500 horse and 2,000 foot, with one battery of artillery, in the following manner:

The infantry, in command of the citizen General Francisco Arce, was divided into three columns, forming the 1st of the 1st and 6th battalions, under its chief the citizen Colonel Montesinos; the 2d of the 2d and 7th battalions, its chief the citizen Colonel Edelmiro Mayer, and the 3d, the supreme power battalion, and the 1st light of Saltillo at the orders of the citizen Colonel Macias. As an infantry reserve the 1st light battalion of Leon, commanded by the citizen Colonel Miguel Palacios.

The cavalry was divided into four columns, commanded by the citizen Colonel Pedro Martinez, and composed the 1st of the corps of the northern legion, its chief the citizen Lieutenant Colonel Francisco Olivares; the 2d of the corps of Parras, its chief the citizen Colonel Emiliano Laing; the 3d of the 2d corps of Zaragoza, its chief the citizen Lieutenant Colonel Antonio de Leon; the 4th of the 1st Zaragoza corps, its chief the citizen Lieutenant Colonel Francisco Martinez; and, as a reserve, the corps of Galeana hunters and 1st Durango, at the orders of the citizen Lieutenant Colonel Hipolito Charles. Don Juan Villanueva, the citizen battalion commander, captain of the 1st of this force, was chief of the artillery. The command of the entire division was intrusted to the citizen general 2d in chief of the army corps, Geronimo Treviño.

Having thus organized the forces, without loss of time I left the Carro hacienda on the 31st of January last, and passed the night at Santa Elena, where I heard during the night that Miramon had left, with all his forces, on the evening of that day, in my direction, but not marking the road he had taken.

At 4 o'clock on the morning of the 1st day of February I continued my march. At the Estancia de Jarillas I found the enemy had taken the road to Aguas Calientes, and, making a short cut, I managed to overtake him at the hacienda of San Diego. I had been perceived, and he seemed to be waiting for me at that point. I made an exploration of the field, protected by rifles that General Trev.ño had ordered to deploy. On coming in sight of the enemy I sent the 1st, 2d, and 3d companies of cavalry, under its chief the citizen Colonel Pedro Martinez to my left, taking possession of a small elevation till I could weather the right of the enemy. I ordered an advance in the centre, the 1st, 2d, 3d infantry taking the flanks, posting two pieces of artillery on the brink of a pond to protect it. The reserve cavalry was sent to the right, under the citizen General Miguel Blanco, who put himself at the front of it, telling me two days before he was a good Mexican, offering me his services in any way he could be useful, and I gave orders to this chief to double the position of the enemy, out of reach of his artillery, supported by the 4th column of cavalry, that was kept as a reserve On perceiving these movements, the enemy suddenly fell back, concentrating at the hacienda to make a retreat, and notwithstanding the rapidity of my evolutions, I succeeded in sending several volleys of artillery among his columns.

Fifty carbineers of the 2d column of cavalry, protected by fifty others of the same arm, continued to harass him closely in his retreat. I gave orders to the citizen Colonel Martinez to continue his march on the left to the heights on the enemy's rear; to the citizen General Blanco to continue to the right till he got as far as the same heights with Colonel Martinez, so as to shun, in this way, the ambushes the enemy might lay, and I ordered the citizen General Treviño to go forward with the parallel columns of infantry and the fourth cavalry, which was in reserve.

The resistance which the enemy offered to our riflemen was obstinate, and our men obstinately persecuted him as far as San Francisco de los Adames. Here I wanted to take advantage of good ground before the enemy could reach the strong position of Cuisillo ranch, where he might cause us great loss. I sent orders to the citizen General Blanco to conquer the obstacles that the

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ground presented to him, to advance his column in a trot till he doubled the position of Cuisillo; to Colonel Martinez to advance by the left till he should come to the main road, and to the citizen General Treviño to make the fourth column advance, following up the charge that I was to make in a few minutes, by aid of the infantry.

On entering the plain, my columns of cavalry marched to the heights designated. I arranged for Colonel Martinez to put himself at the head of the 4th column, which was to charge in the centre, and I formed a line of battle in front of the enemy, at the same time that he did the same.

Two sections of the northern legion supported the left of my line, and two sections of the Parras carbineers my right. The column of cazadores advanced to turn the position of the enemy. I ordered a charge, and notwithstanding the obstinate resistance made by the enemy, making use of artillery, ten minutes after my order was given the enemy was completely routed. A portion of our forces pursued him, another struck the tents, and the greater part of those that remained, not engaged in the fight, continued their march to encounter the Castillo column in the direction in which we heard it was coming to protect the chief whom we had just conquered.

By document number 1 you will be informed of the number of prisoners we took from the enemy; by number 2, of the artillery, armament, munitions, and supplies which were captured; by number 3, of the killed and wounded; by number 4, of the transports and pack-mules that the enemy left in our power. We also secured 21,936 dollars, which I have sent to the care of the commissary of this army corps.

On our side we have to lament the loss of two officers killed, sixteen men killed and seventeen wounded, all of the line, taking from the field the bodies of ninety-six French and forty-six traitors.

All the citizen soldiers who took part in this combat with an ardor worthy of the holy cause which they are sustaining with a great contempt of life, struggled with diligent rivalry to distinguish themselves as the first. All did their duty, and to their patriotism and valor the country owes another day of glory and a signal victory, the consequence of which can be nothing less than the early and felicitous termination of the war in favor of the cause of the republic.

Constantly occupied in business very important to the service ever since the day of the battle up to this time, and marching every day, it has not been possible for me to make a report till now.

I pray you to be so good as to give an account of it to the citizen President for his information and consequent ends.

Independence and liberty! San Felipe, February 7, 1867.

MARIANO ESCOBEDO.

Citizen MINISTER OF WAR, *Zacatecas*.

No. 1.

ARMY OF THE NORTH—FIRST DIVISION, OFFICE OF MAJOR GENERAL.

HACIENDA OF SAN JACINTO, *February* 3, 1867.

List of the prisoners of war, traitors and French, taken in the battle of the 1st of the present month:

Traitors	350
French	122
Traitor officers	4
Total	476

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NOTE.—The traitors above mentioned have been equally distributed among the different corps.

MIGUEL PALACIOS.

No. 2.

NORTHERN ARMY CORPS—FIRST DIVISION, OFFICE OF MAJOR GENERAL.

HACIENDA OF SAN JACINTO, *February* 3, 1867.

List of artillery, arms, munitions, and other effects taken from the enemy at the hacienda of San Jacinto, on the 1st of February, 1867:

Mounted artillery.	Good.	Useless
Bronze cannon, calibre of 12	3	
Bronze howitzers, calibre of 15	5	
Mountain howitzers, calibre of 12	12	

Dismounted artillery.	Good.	Useless.
Bronze howitzer, calibre of 16	1	

Implements for the service of the pieces.	Good.	Useless.
Swabs, with ramrods	17	
Aiming levers	16	
Drag-ropes	5	
Port-fires	2	
Chest for howitzer cartridges of calibre 16	1	
Chests of cartridges for mountain howitzers of calibre 12		12
Trestles		8

Munitions for artillery.	Good.	Useless
Ball cartridges for cannon of calibre 12	104	39
Canister cartridges for same	32	20
Cartridges, with powder only, for same	46	
Loaded grenades for howitzers of calibre 15	109	14
Charges of grape-shot for same		28
Cartridges, with powder only, for same	67	33
Charged grenades for mountain howitzers of calibre 12	322	70
Charges of grape-shot for same	75	40
Cartridges, with powder only, for same	70	

Munitions for infantry.	Good.	Useless.
Ball cartridges for fusees of 15 drams	6, 000	18, 500
Ball cartridges for Enfield rifles	1, 900	
Ball cartridges for Minié rifles	8, 000	9, 500

Powder.	Good.	Useless.
Cannon powder made in the country, (arrobas)	6	
Gunpowder made in the country	6	

Arms for infantry.	Good.	Useless.
Percussion muskets of 15 adarmes, with bayonet	61	
The same, without bayonet	93	
The same, transformed	56	
Enfield rifles	96	
Minié rifles, without axes	32	
Odd muskets of different calibres		37

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For cavalry.	Good.	Useless.
Musket barrels shortened		3
Sabres, with steel sheath	23	

Park effects:
60 pigs of lead, 300 pounds.

MAJOR GENERAL MIGUEL PALACIOS.

No. 3.

NORTHERN ARMY CORPS—MEDICAL STAFF OF THE CORPS.

HACIENDA OF SAN JACINTO, *February* 2, 1867.

List of persons wounded, French and traitors, on the field of battle of the 1st instant:

	Wounded.	Officers killed.	Soldiers killed
French prisoners, gendarmes	33	1	4
Traitors	24	1	3
Total	57	2	7

Deduct those dead in the hospital, 9, leaves 48.

VIVIANO BERLANGA.

Attest:

PALACIOS.

No. 4.

ARMY OF THE NORTH—FIRST DIVISION, OFFICE OF MAJOR GENERAL.

HACIENDA OF SAN JACINTO, *February* 3, 1867.

Account of carriages and mules taken from the enemy at the hacienda of San Jacinto, on the 1st of the present February:

Vehicles:

Army ambulance	1
Carriages	3
Two-wheeled carts	57
Four-wheeled wagons	8

Mules:

Draught mules, for artillery service	64
Draught mules, for wagon service	216

NOTE.—The pantaloons, shirts, drawers, sarapes, &c., in the carts, this headquarters cannot give a total of, because they were immediately distributed after the action by orders of the citizen general in chief, which distribution was effected by the citizen Lieutenant Colonel Francisco Ortega.

MIGUEL PALACIOS.

Printing establishment of the government, in charge of José M. Davalos.

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Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, April 1, 1867.

SIR: I have the honor to acknowledge the receipt of your communication of the 23d instant, transmitting a copy of the official report of General Escobedo of his military operations on the first day of February last, near San Jacinto.

I avail myself of this opportunity to renew the assurance of my high consideration.

WILLIAM H. SEWARD.

Señor Don MATIAS ROMERO, &c., &c., &c.

FORCED LOANS IN MEXICO.

BUREAU OF CLAIMS, *March* 27, 1867.

Our treaties with Mexico do not contain any direct stipulation against the levying of forced loans from American citizens. The third article, however, of the treaty of 1831 (8 Stat., 410) provides that "they shall not pay higher or other duties, imposts, or fees whatsoever than those which the most favored nations are or may be obliged to pay; and shall enjoy all the rights, privileges, and exemptions, with respect to navigation and commerce, which the citizens of the most favored nations do or may enjoy." A forced loan is not strictly included within the terms "duties, imposts, or fees;" and if immunity should be claimed under the clause securing such "privileges and exemptions" as the citizens of the most favored nations enjoy, it might be alleged, with some plausibility, that "privileges and exemptions, with respect to navigation and commerce," do not necessarily include exemptions in respect to taxation, or to loans enforced as a necessity, arising from inability to procure funds by taxation. I think, however, this is no more than plausible. A loan, properly speaking, is a commercial transaction. It does not, as it seems to me, lie in the mouth of the Mexican government to allege that it is taken out of that category because it is enforced. It is not the less a bargain because one party enters into it against his will, as against those who apply the duress.

If this be so, then our citizens are protected from such impositions, because Mexico guaranteed to British subjects, by the tenth article of her treaty with Great Britain of December 26, 1826, (3 Hertslet, 252,) that "no forced loans shall be levied upon them."

It seems to me, however, not wise, if it can be avoided, to allow the right of our citizens to immunity from such a contribution to rest upon argument. To my mind the capacity of a nation, in case of extreme necessity, (and of this, in the nature of things, it must be the exclusive judge,) to possess itself of any property within its territorial jurisdiction, subject only to an equitable obligation to restore the property, or its value, is a clear and invaluable attribute of sovereignty. I cannot doubt that, as a government wanting horses or ships may take the horses or the ships where it finds them, without regard to the objection that it imposes a burden upon the owners, from which others are exempt, and is, therefore, unequal; so it has good right to impress the money of those who happen to have coin, without regard to the objection that those whose property consists of ships or horses escape the contribution for the time being. Any limitation upon this ultimate right of eminent domain ought to be expressed in the most unmistakable terms. This is done in the tenth article of our treaty with the Argentine Confederation, concluded July 27, 1853, (10 Stat., 1009,) in these terms:

"The citizens of the United States residing in the Argentine Confederation, and the citizens of the Argentine Confederation residing in the United States,

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shall be exempt from all compulsory military service whatsoever, whether by sea or by land, and from all forced loans, requisitions, and military exactions; and they shall not be compelled, under any pretext whatever, to pay any ordinary charges, requisitions, or taxes greater than those that are paid by native citizens of the contracting parties respectively."

The British treaty with Honduras of August 27, 1856, (10 Hertslet, 875,) contains, in article XV, a provision identical with the preceding, except a transposition which makes the exemption from "all forced loans or *military* exactions or requisitions;" and the insertion of words so as to make the exemption from paying "any ordinary *or extraordinary* charges, requisitions, or taxes, *other* or higher than those that may be paid by native subjects or citizens." This is a little more careful expression of the sense of the Argentine treaty, and may well be adopted as the model for an article to be proposed to Mexico.

E. PESHINE SMITH.

[Memorandum.]

WASHINGTON, *March* 28, 1867.

Mr. Romero said that he read with attention the memorandum of the examiner of claims of the department, handed to him by Mr. Seward; that Mr. Romero thinks it very reasonable, so far as it admits that a government has the right to impress the money of the residents, when in extreme need of it, just as it can impress horses, ships, &c, this right being one of eminent domain; that Mr. Romero has no instructions from his government to begin or enter into negotiations with the government of the United States for the purpose contemplated in said memorandum; but that he will submit that paper to the Mexican government, and will ask for instructions on the subject, and that, in the meanwhile, the negotiation may be considered as commenced.

Mr. Romero to Mr. Seward.

[Translation.]

WASHINGTON, *March* 28, 1867.

MY DEAR SIR: I have the honor to send you, for your information, a copy of the official report which General Corona, chief of the army of the west, of the Mexican republic, made to his government on the 2d of February last, communicating the taking of the city of Colima, capital of the State of the same name, which has placed at the disposal of the national government of Mexico another important State and some war material.

I am, sir, your very obedient, humble servant,

M. ROMERO.

Hon. WILLIAM H. SEWARD, *&c., &c.*

[Extract from the News Bulletin of the western army, Colima, February 5, 1867.]

On the morning of the 31st of January last, I joined the citizen General Amado Antonio Guardarrama, chief of the united brigades of Jalisco and Colima, at a place called Alcaraces, seven leagues from this city, and on the evening of the same day reached the principal entrance of the city; then acting in combination with the citizen General Julio Garcia, who held the western portion of the town with the cavalry under his command, I proceeded to place my forces in a line parallel to the fortified radius of its circumvallation. At seven o'clock on the morning of the first instant, I ordered a surrender, when Gene-

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ral Felipe N. Chacon, the chief in command, proposed a parley for an arrangement of terms.

In the meantime, I made known to the besieged that I would only suspend my firing in front, and continue the mining I had begun early, to bring me nearer the perimeter of the fortified city.

The day was passed in parley, fixing the terms of surrender, which were, that I should occupy the place at noon next day with the troops I had brought for that purpose, and I did so.

From the communications I have the honor to enclose in copy, numbered from one to six, you will learn the tenor of the correspondence that took place previous to the surrender of the place; and if it appears that I made more concessions than necessary, considering the superiority of my forces, I had two reasons for it: first, I wanted to gain time for the expedition into the interior, and I have already advanced citizen General Manuel Marquez, with the vanguard of the division; and second, I wanted to utilize the elements of war contained in this city, and leave those in Manzanillo for future emergencies, and in both cases to act with honor to the republican arms, and to the glory of the nation. While the enemy was evacuating the city, an unpleasant incident disturbed the order of proceedings: the three hundred men that were to occupy the garrison, on defiling in front of the fort, began to shout *viva la republica*, and were fired upon by the enemy. The result of this disturbance was four killed in the fort, and one on our side, a young lieutenant named Juan Nepomuceno Suro, belonging to my staff, who had advanced to restore order.

On account of that grievous occurrence, only General Chacon and a few of his officers were allowed to leave. I then deemed it my duty to escort them as far as Lagos, as I had agreed to do; and now the legitimate authority of the republican government is re-established in the State.

On that occasion 932 men remained in my power, I found 263 muskets in the garrison, nine field pieces and one siege gun, and all the provisions and war material given below.

In my operations for circumvallating the fortified line of the city, I must mention the following losses: Citizen José Diaz Vivar, second captain of artillery, killed; Crescencio Aguilar, ensign; citizen Juan Ortiz, corporal; and three soldiers—Nicolas Escamilla, Rafael Munguia, and Ignacio Benancio. My wounded were—citizens Enrique Aragon, and José Maria Rodrigues, both artillery lieutenants; ensign citizen Rafael Villaseñor; citizens Vicente Rivera, Manuel Gusman, and Ines Gonzales, second sergeants; corporal of cornets, citizen Dolores Hernandez, and citizen soldiers Geronimo Garcia, Juan Bueno, Francisco Güizar, Antonio Lopez, and Celso Vazquez. All the citizens, chiefs, and officers belonging to the army that I have the honor to command, and who took part in the operations I have just detailed, did their duty.

Please have the kindness, citizen minister, to communicate this report to the President of the republic, and congratulate him in the name of the army of the west and its general-in-chief on the victory in this city yesterday, gained by the national arms, thus closing the war against the foreign invaders of this State, which they compelled us to prosecute.

Independence and liberty! Headquarters in Colima, February 2, 1867.

RAMON CORONA.

The Citizen MINISTER OF WAR AND MARINE, *at San Luis Potosi.*

No. 1.

CITIZEN GENERAL: In respect to humanity, I address you the following: All resistance on your part, since I have reached the city gates, would only increase the number of victims, already too many, that have been sacrificed in the most unjust of causes.

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Reflect upon it well, and accept the liberty I give you to choose either a foreign pass for yourself and all your chiefs and officers, or a safe conduct with an escort to present yourself to the citizen President of the republic. Life is guaranteed to the troops up to the rank of sergeant.

It is now seven o'clock in the morning, and I will suspend hostilities till noon, to await your answer.

Independence and liberty! Camp near the principal entrance, February 1, 1867.

RAMON CORONA.

General FELIPE CHACON, *Colima.*

No. 2.

FOURTH MILITARY DIVISION, GENERAL-IN-CHIEF,
Colima, February 1, 1867.

GENERAL: In reply to your note of this date, I agree with you that it is best not to increase the number of victims in this war that divides the country, and I propose an armistice till commissioners may arrange terms of capitulation, assuring you all I ask is respect to the military honor of this garrison. As a proof of my honorable intentions, I send two copies of proposals for an amicable arrangement.

FELIPE N. CHACON,
General-in-Chief.

General RAMON CORONA, *Colima.*

No. 3.

I have just received your despatch of to-day, and a copy of one addressed to me at Gaudalajara, on the 21st ultimo. I send Lieutenant Colonel Bibiano Hernandez and Mr. Augustin Caravantes to treat with you about the first.

I have ordered hostilities to cease on the line of communication with the city, expecting you to do the same along your entire fortified line.

Independence and liberty! Headquarters in Colima, 1st of February, 1867.

RAMON CORONA.

General FELIPE N. CHACON, *Colima.*

No. 4.

FOURTH MILITARY DIVISION, GENERAL-IN-CHIEF,
Two and three-quarters in the afternoon.

GENERAL: Instructed by your despatch of to-day of the deference you have paid to mine of the same date, I learn that to treat of the affair to which the said note refers you have named on your part Lieutenant Colonel Bibiano Hernandez and Licenciado Augustin Caravantes; in virtue whereof, and considering that you have ordered firing to cease till I on my part fix the hour for suspension, I must say to you that it will be at four o'clock this evening, expecting you will do the same, according to the laws of war, and suspend at the same time all work upon the line, as well as prevent any advance of your troops from their present positions, and I will do the same.

FELIPE N. CHACON,
General-in-Chief.

COLIMA, 1*st February*, 1867.

General RAMON CORONA, *Present.*

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No. 5.

GENERAL: I acknowledge the reception of your despatch of to-day, written at three-quarters after two o'clock this afternoon.

The same citizen commissioners return near you from these headquarters, to treat with you, and citizen Ignacio M. Escudero, the quartermaster in the army under my command, accompanied them. The present serves as a credential that accredits the official character of all, and authorizes them to fix the terms of the surrender of the troops that you have under your command, for which they carry instructions serving for a basis of the conditions laid down in my first communication of this morning, reserving to myself the right to approve what is agreed upon.

I have already given the command necessary for the complete suspension of firing along the entire line of circumvallation.

Independence and liberty! Headquarters in Colima, February 2, 1867.

General FELIPE N. CHACON, *Present.*

No. 6.

CONVENTIONS OF COLIMA.

The progress of political events in the country have reached such a point in this city that the forces of the army of the west, under the command of the citizen General Ramon Corona, find themselves in front of the garrison troops of the 4th territorial military division, under the command of citizen General Felipe N. Chacon.

Both parties being in hostile positions, and firing beginning, the first mentioned general addressed a communication to the fort, proposing a convention to avoid the effusion of blood. The proposal was accepted, an armistice ordered and the following commissioners appointed: On the part of General Ramon Corona, citizen Colonel Ignacio Maria Escudero, quartermaster of the western army, Lieutenant Colonel Bibiano Hernandez and Licenciado Augustin Caravantes, auditor of war in the same army; and on the part of General Chacon, citizens General Antonio Alvarez, major general in the division in the place, and Colonel Ignacio Esparga.

Said commissioners, after a reasonable discussion, agreed upon the following:

1st. The city of Colima shall be evacuated by the forces that garrison it, and shall remain at the disposal of citizen General Corona.

2d. The troops shall march out with drums beating and colors flying, provided with two rounds for each man and his necessary baggage.

3d. The number of men to march out shall be three hundred, selected at the will of General Chacon, and all the chiefs and officers of his division.

4th. These troops shall take up their line of march on the road chosen by both generals, till they are out of the State of Jalisco, towards the interior, in which march they shall not be harassed by the forces under the command of the citizen General Corona.

5th. If during the march of these troops news comes that Miramon has been defeated, Chacon shall give up the arms of his three hundred men, and continue only with his chiefs, officers and unarmed men, who shall have an escort in that case as far as the State line of Jalisco, which is the town of Lagos.

6th. The evacuation of the city shall take place at noon to-morrow after the adverse troops have been withdrawn from their lines of occupation, and the appointed commissioners, named for that purpose on the part of General Corona, shall have taken formal possession of the place with all that it contains.

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7th. At the hour specified the troops that the citizen General Corona shall designate for the occupation of the city shall march into the public square, and the troops that are to evacuate shall take up their line of march as already specified.

8th. The commissioners that are to receive the place shall enter upon the discharge of their duties as soon as they make their appearance.

9th. The commissary of the army of the west shall furnish the chief officers and men with provisions for their journey to the city of Lagos, and till they leave that place.

10th. The foregoing articles, signed by said commissioners, shall have full effect as soon as they shall be ratified by both generals-in-chief.

Colima, the first day of February, eighteen hundred and sixty-seven.

IGNACIO M. ESCUDERO,
A. E. DE B. Y CARAVANTES,
BIBIANO HERNANDEZ,
Commissioners of General Chacon, Antonio Alvarez, and Ignacio Esparza.

I ratify these conventions. Headquarters in Colima, on the first of February one thousand eight hundred and sixty-seven.

FELIPE N. CHACON,
General-in-Chief.

I ratify these conventions. Headquarters in Colima, on the first of February, one thousand eight hundred and sixty-seven.

RAMON CORONA.

Inventory of ordnance accoutrements found in the place.

1 eight-inch field-piece, with its complete sets of implements; 9 mounted mountain howitzers; 9 swords; 9 levers; 9 rammers; 7 charges of canister shot; 1 sight screw and two hooks of sets of arms are wanting; 28 half used pack-saddles, wanting several traces and sweat cloths; 1 complete harness, only wanting one saddle and a girth; 8 haversacks; 7 provision bags; 7 punches; 4 flagstaffs; 4 halyards for same; 4 hooks; 5 trace lines.

Inventory of munitions in store.

11 charges of canister shot; 4 haversacks; 3 provision bags; 3 cartridge boxes; 2 trace lines; 4 traces; 2 punches; 2 casks for making powder, one yard long, and eighteen inches diameter; 1 cask three-fourths of a yard long, and eighteen inches diameter; 1 cask two-thirds of a yard long, and eighteen inches through; 1 barrel made for the same use as the casks; 2 trays of three yards in circumference with nitre; 1 tray of the same size, containing cannon powder; 1 tray containing three pounds of sulphur; 2 kettles, containing seventy-five pounds of gunpowder; 2 tin sieves; 1 scale; 2 willow baskets; 1 kettle containing gum for glazing; 99 muskets; 56 rifles; 1 pair of measures; 25 lances; 500 empty shells of twenty-four inches; 762 common eight-inch cannon balls; 308 empty hand grenades of twenty-four inches; 86 empty hand grenades of thirty-six inches; 50 hand grenades, loaded, of twelve inches; 129 loads of grape shot, twelve pounds; 29 common shot of eight pounds; 3 tons of loose grape shot; 48 balls for rifled cannon, in boxes; 1 howitzer by Vergaza, twelve-pounder, a new invention; 4 machine wheels for grinding metallic ores; 3 swords; 42 pounds of gunpowder in bulk; 40 gun covers; 3 boxes of empty cartridges;

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1 box of powder; 8 loads of grape shot, twelve-pounders; 18 six-pound balls; 14 six-pound balls, with sabots; 36 signal lights; 2 jars of powder; 1 cask of caps; 4 loads of twelve-pound grape shot; 12 punches; 3 cartridge boxes; 1 empty box; 1 box three feet square, containing percussion caps for guns; 10 empty boxes; 1 box containing one hundred and seventy-five pounds of half-ounce rifle balls; 35 cannon primers; 1 Turkish bullet mould; 73,000 one-ounce cartridges in sixty-three boxes; 900 projectiles for twelve-pound howitzers, and eight pound cannons.

NOTE.—There was no port-fire in the magazine. There are several planks and empty boxes of different sizes, several leather thongs, many ropes, and small pieces of machinery.

COLIMA, *February* 2, 1867.

EPIFANIO GARCIA.

Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, May 14, 1867.

SIR: I have the honor to acknowledge the receipt of your communication of the 25th of last month, transmitting for my information a copy of General Corona's report of the capture of the city of Colima, for which be pleased to, accept my thanks.

I avail myself of this occasion to renew the assurances of my most distinguished consideration.

WILLIAM H. SEWARD.

Señor Don MATIAS ROMERO, &c., &c., &c.

Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, April 4, 1867.

The Secretary of State has the honor to transmit for the information of Señor Romero a copy of a despatch which has been received from the consul general of the United States at Tampico, containing a letter addressed to him by General M. Cuesta, of the liberal army of Mexico.

Señor Don MATIAS ROMERO, &c., &c., &c.,
Washington, D. C.

Mr. Chase to Mr. Hunter.

UNITED STATES CONSULATE GENERAL,
Tampico, March 6, 1867.

SIR: I have the honor to enclose herewith a copy of a letter addressed to this consulate from General Manuel M. Cuesta, of the liberal army, and political chief of the southern district of Tamaulipas, by which you will be pleased to perceive that he appeals to Lieutenant General Sherman for auxiliary aid in the defence of this port against an expected attack by the imperial gunboats now under the orders of Maximilian.

Not knowing in what part of the United States General Sherman may be at the present time, I have thought it most prudent to send the above-mentioned copy direct to your department for such action as it may deem proper.

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I will merely add that the authorities here are much alarmed for the safety of this place, which they cannot hold for any length of time against the attack of two small gunboats.

I have the honor to be, sir, with great esteem an drespect, your most obedient servant,

FRANKLIN CHASE.

Hon. WILLIAM HUNTER,
Second Assistant Secretary of State, Washington.

POLITICAL HEADQUARTERS AND MILITARY COMMANDANCY OF THE SOUTHERN DISTRICT OF TAMAULIPAS.

From a paragraph in the New York Herald of the 5th instant we learn that an iron-clad vessel is about to leave England for Vera Cruz to serve Maximilian; and as recent news from Mexico says he is still at the head of the traitor party, and will have gunboats left to take this port and Matamoras after the French-Austrian army leaves, I have thought proper to remind General Sherman—which I now do through you—of his promise to me, to station American gunboats outside of the bar of this port to prevent the entrance of the enemy, or to give me the assistance I solicited for that purpose in my note of the 8th instant to you.

I am pleased to renew the assurances of my esteem and consideration.

Country and liberty! Tampico, February 22, 1867.

MANUEL M. CUESTA.

Mr. FRANKLIN CHASE,
United States Consul General in this port, Present.

Mr. Romero to Mr. Seward.

[Translation.]

MEXICAN LEGATION IN THE UNITED STATES OF AMERICA,
Washington, April 4, 1867.

The minister of the Mexican republic has had the honor to receive the note, of this day's date, which the honorable Secretary of State of the United States of America has pleased to address to him, enclosing a copy of a communication from the consul general of the United States at Tampico, dated the 6th of May last, with which he sends a despatch that General M. Cuesta, political chief of the southern district of Tamaulipas, on the 22d of February previous, addressed to him, asking aid from the United States to defend that port against invasion by rebels to the Mexican government.

The expedition which, in February last, was about to move on Tampico did not take effect, and the rebels were, on the other hand, in such condition that it would not be possible for them to undertake it. Besides, even if the Mexican government might think it convenient to solicit, in any manner, the aid of the United States, it would certainly do so of itself and through persons specially authorized, because, in accordance to the constitution of Mexico, it belongs exclusively to the federal government to have understandings with foreign nations.

The minister of Mexico will transmit to his government the memorandum from the honorable Secretary of State and the documents annexed to it.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

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Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, May 4, 1867.

The Secretary of State begs leave to submit unofficially to Mr. Romero's attention the enclosed letter of Mr. J. H. Defrees and the Hon. Wm. Lawrence, member of Congress from Ohio, and will thank Mr. Romero for any good offices which he may think proper to perform in regard to the personal matter presented in the correspondence. Mr. Romero will have the goodness to return at his convenience Mr. Defrees's letter, which is addressed to the Secretary.

Señor Don MATIAS ROMERO, *&c., &c., &c.*

Mr. Romero to Mr. Seward.

[Unofficial.]

MEXICAN LEGATION IN THE UNITED STATES OF AMERICA,
Washington, May 5, 1867.

Mr. Romero has received Mr. Seward's unofficial note of yesterday with enclosures regarding Mr. W. S. Defrees, and will forward with his correspondence the letter addressed to this young man, now thought to be in the service of the Mexican republic. Mr. Romero also will recommend to his government to do as much as may be deemed proper to favor the wishes of the distressed father, and returns herewith Mr. Lawrence's letter to Mr. Seward.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*,
Washington, D. C.

Mr. Romero to Mr. Seward.

[Translation.—Extra-official.]

MEXICAN LEGATION IN THE UNITED STATES OF AMERICA,
Washington, June 4, 1867.

MY DEAR SIR: I have the pleasure of transcribing for your information a copy of a circular which I address to-day to the governors of the States of the Mexican republic, remitting to them collections of the documents on the affairs of Mexico, published by the government of the United States while our war with France was going on.

I am your very obedient and faithful servant,

M. ROMERO.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

MEXICAN LEGATION IN THE UNITED STATES OF AMERICA,
Washington, June 4, 1867.

From the time when our war with France began, the Congress of the United States has asked the President, at each term of its session, for the official correspondence and other information relating to our affairs, and almost always, in a special manner, for that addressed by this legation to the Department of State

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at Washington. The President has sent in on all these occasions the correspondence which was asked for, which has been printed by order of Congress. In this manner every year, since 1862, there has appeared a volume, of more or less bulk, of the official correspondence on the affairs of Mexico, composed for the most part of the notes and their annexes, sent by this legation to the Department of State; that from the department to the legation of the United States in Mexico; that of some consulates of the United States in the republic; that of the legations of the United States in Europe, in so far as the Secretary of State has thought fit to give them to light, and that which has been exchanged upon the same business between this government and the French legation resident in this city.

When European intervention in Mexico appeared imminent, I thought it my duty to transmit to the government of the United States every document of any importance that came into my hands having relation to our affairs. Sure that justice was on our side, and that whatever document should be offered to the examination of this government, and through it to the consideration of the people of the United States and the judgment of the civilized word, could no less than render obvious the bad faith and the groundlessness of the protestations of our invaders, I thought by this course we would gain much without exposing ourselves to any loss. The weight of these considerations increased very considerably when France threw off the mask with which she had commenced the war, and openly declared her object was to uproot the national government of Mexico, to substitute for it a European monarchy, imposed by force, and with the ulterior view, although not confessed, that if the plan should have good result it would reduce our country into a French colony.

The military successes which the invaders gained in the third and fourth years of the war came very efficiently in aid of the efforts of the French government to mislead public opinion respecting the true state of the question, with the object of creating the impression that all was concluded, and that the entire nation had humbly submitted to the adventurer sent by Napoleon as his manager. Our position abroad became worse as that of the French improved, and then there remained for us no choice than to present, in an authorized and efficacious manner, to the whole impartial world our side of the question through the government of the United States.

Having, therefore, these objects in view, I endeavored to submit to this government not only the official reports of the battles fought by our generals, and which showed that the war of independence was actively prosecuted at the very time when Napoleon, on solemn occasions, had declared it had ended, but also all other data which threw some light on the feeling of our people, or the reasons for which it was not possible for us to make more vigorous resistance, and all other incidents of the war, including, as may be supposed, the numerous intercepted correspondences of our enemies.

Among those documents are many of a private nature which, until now, have not met the public eye in Mexico, and the knowledge of which is indispensable to form an accurate opinion of the events of the last six years. My desire to deposit in the Department of State of the United States whatever documents might have relation to our affairs led to the extreme of sending to it many of those emanating from our enemies, all those published by foreign governments which came into my hands, and, besides, the discussions had in the legislative body and senate of France, on the same question. The result of all this has been, that in the six volumes which form the collection of these documents there are most important data that cannot elsewhere be found, and the knowledge of which is indispensable to a just appreciation of events, not merely in what relates to negotiations entered upon by foreign nations about our affairs, as for example between the United States and the French government, but even about the events which were happening in the republic during the war.

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Believing that I exaggerate in nothing the importance of these documents, it has, then, seemed to me that it would be proper at least that in the archives of the governments of each of our States, or in the public library that may be therein, there should exist a collection of the said documents, as well that the persons who in future may devote themselves to writing the history of this epoch of trial may, without great difficulty, obtain the data without which their labors would be incomplete, as that the young may profit by the severe lesson which they teach us, and may see how far the moral aid of the United States has contributed to our triumph.

Making, therefore, a great effort to acquire a sufficient number of collections, for there is a great scarcity of the volumes printed in the three first years of the war, I have succeeded in collecting at last what were wanting, and of which I have the honor to send you one, intended for your State. If there should be a public library in it I should think it preferable that you should please to send it there, because thus it would be in the reach of a greater number of persons, and will produce the results the most desirable.

I avail of this occasion to renew to you the assurances of my most distinguished consideration.

M. ROMERO.

The GOVERNOR *of the State of* ——.

Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, June 11, 1867.

DEAR SIR: I have the honor to acknowledge the receipt of your favor of the 4th instant, marked extra official, enclosing a copy of the circular addressed by you to the several governors of the Mexican States at the time of transmission to them of "the collection of documents on Mexican affairs during the late war with France, published by order of the government of the United States," for which be pleased to accept my thanks. I am gratified to see that you have so disposed of the collection that it may come to the knowledge of the Mexican people and furnish interesting materials of history.

I am, my dear sir, your obedient servant,

WILLIAM H. SEWARD.

Don MATIAS ROMERO, *&c., &c., &c.*

Mr. Romero to Mr. Seward.

MEXICAN LEGATION,
Washington, June 14, 1867.

Mr. Romero presents his compliments to Mr. Seward, and has the honor to enclose a translation of a letter from General Diaz, dated at Tacubaya, on the 26th ultimo, containing information in regard to military operations in the city of Mexico.

General Diaz to Mr. Romero.

TACUBAYA, *May* 26, 1867.

MY MUCH ESTEEMED FRIEND: Since my last letter to you the division of General Riva Palacio and a brigade from Puebla, which was attached to the army of the east during the siege of Queretaro, have been incorporated to the army of

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operations against the city of Mexico; also the army of the west under the command of General Corona, and two divisions of the army of the north under that of General Francisco Alatorre; we thus number in all some 35,000 men, and within a few days Mexico shall be ours.

I could have taken it with the forces of the eastern army alone, but I had not sufficient cavalry to cover all the outlets, through which the principal guilty parties would have escaped us; but now with 9,000 cavalry all the avenues will be well guarded, and the same thing will happen as at Queretaro—none will escape us. I have full faith and great confidence in the result.

Within the city of Mexico, its press still endeavors to deceive the people by denying the fall of Queretaro and imprisonment of Maximilian; but both the people and the army have heard of it. I consider the occupation of Mexico a matter of very few hours, and I do not believe that Vera Cruz will attempt to hold out afterwards. In conclusion, when you shall have received this letter, the soil of Mexico will have been already cleared of traitors.

Without time to say more, I repeat myself your sincere friend,

PORFIRIO DIAZ.

Señor Don MATIAS ROMERO,
Mexican Minister, Washington.

WASHINGTON, *June* 14, 1867.

A true copy:

CAYETANO ROMERO, *Secretary pro tem.*

Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, June 15, 1867.

SIR: I have the honor to acknowledge the receipt of your note of yesterday, enclosing a translation of a letter from General Porfirio Diaz, detailing the history of recent events in Mexico.

While thanking you for the information thus communicated, I avail, &c.

WILLIAM H. SEWARD.

Señor Don MATIAS ROMERO, *&c., &c., &c.*

Mr. Romero to Mr. Seward.

MEXICAN LEGATION,
Washington, June 15, 1867.

Mr. Romero presents his compliments to Mr. Seward and has the honor of sending to him, unofficially and confidentially, a copy of extracts of a letter dated Paris, May 28, 1867, addressed to Mr. Romero, to which he referred in the conversation he had with Mr. Seward this afternoon at the Department of State.

[Translation.]

PARIS, *May* 28, 1867.

There is here a crowd of rabid Mexicans; one Blancarte was telling me last evening the atrocities committed by the French—what they have gathered together, and beyond all Bazaine. There is good reason for the belief

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that the traitors are at work to get the United States to draw from Juarez guarantees for the safety of their lives and property; in this sense it is said that Almonte is laboring in London, availing himself of the influence of the English and American minister in Paris that he may realize such thought. Almonte has written to several noted persons from the United States, and obtained from them letters of recommendation from as many personages as he could. Haro went suddenly to London. It is probable that he may there join Almonte, for the purpose intimated. The said priest thinks that the protection of the United States is his only rock of salvation. As for me, I have for some time thought this project was meditated, and the propositions made in the Congress of the United States prove that they have promoted it.

Mr. Romero to Mr. Seward.

[Memorandum.]

WASHINGTON, *July* 15, 1867.

Mr. Romero said that all he knows about the reported disposition of the Mexican government not to allow Mr. A. Dano, who had been acting as French minister near the late Maximilian, to leave the republic, is, that while Maximilian's trial was going on Mr. Dano made an application to General Diaz, then besieging the city of Mexico, to allow him to go to Queretaro to assist Maximilian. General Diaz replied officially on the 10th ultimo, as he has informed Mr. Romero, that he did not feel himself authorized to accede to Mr. Dano's request, unless he should be instructed to do so by the President of the republic. Mr. Dano did not push his application any further, and the matter seems to have dropped there.

As regards the rumors that the Mexican government intends to keep Mr. Dano as a hostage, Mr. Romero has received no information which can in any way confirm that assertion. Mr. Romero, however, believes that, supposing it to be true that a second application of Mr. Dano's to General Diaz for a passport to leave the republic has been declined, as stated, it will be only because General Diaz refused to accept the responsibility of such action, which involves questions foreign to his province as a soldier, and in no way showing a determination of preventing, finally, Mr. Dano from leaving Mexico.

The Mexican government, to whom this subject was undoubtedly submitted by General Diaz, has in all probability acted on it before this; but its determination, which in my opinion would be to let Mr. Dano go, cannot be known here for some days yet.

Mr. Romero to Mr. Seward.

[Translation.]

WASHINGTON, *July* 12, 1867.

MY DEAR SIR: I have the honor to transmit to you, for your information, the minutes of the French legislative assembly for the 21st and 22d of June last, containing the discussion of various questions relating to the state of the French treasury, in connection with the intervention of the Emperor of the French in the internal affairs of Mexico. I also permit myself to send you some of the articles published by the Paris press on the same subject.

I remain your very obedient servant,

M. ROMERO.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

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[From the Moniteur Universal, the official journal of the French empire, No. 173, June 22 1867.—Translation.]

LEGISLATIVE BODY.

Friday, 21st June, 1867, Mr. Schneider presiding.

The PRESIDENT. The Chamber has decided that the debate on the supplemental credits should take place to-day. The discussion is open; Mr. Berryer has the floor.

Mr. BERRYER. My remarks to the Chamber shall be as plain and brief as possible.

The question is about a considerable financial operation, sanctioned by the bill now before the house. The negotiation made by the minister of finance is for a capital of fifty-four millions of francs, remitted by Mexico to the French government, charged upon its debt, which was fixed at two hundred and seventy millions by the treaty of Miramar. That treaty assured the revenue on the fifty-four millions to France, at the value of the bonds when they were issued.

The remission was made, and is considered by the legislative assembly as representing the capital, the interest on which was to be assured to this country. Out of those fifty-four millions, the sum of 40,100,000 francs has been applied to the budget of 1864, and the rest, say 13,900,000 francs, was added to the budget for 1865.

At this period, the financial report of 20th December, 1865, came in, stating that the rentes had been converted into obligations of the second series, like those of the first series, issued in May, 1865.

The minister of finance informs us that the obligations had been negotiated, and the result was a loss of more than two millions of francs to the treasury; and consequently the appropriations for the budget of 1865 would have to be increased.

Such is the condition of things; and from the loss of the two millions by the Mexican negotiation, instead of thirteen millions, only eleven millions are put in the budget of 1865.

This is not a proper way to reckon. It is true, an entire credit was opened, but only two millions was set down as loss to the French treasury; and in the report of 1865 it is charged to arrearage; but I believe interest is never considered as payment of part of the principal of a debt. It is not correct, then, to state two millions as the entire loss on the Mexican obligations. Some explanations were made in December, 1866. In the report of that date it is stated that the appropriation of eleven millions from the budget of 1865 had not been applied, because the rentes and obligations had not been realized; and the grantees were excused from their contract by reason of *vis major*.

I think the excuse is scarcely reasonable. What was the contract? We are not informed. What were its conditions, its nature? From the report of 1865 we must consider it a binding engagement, and not a conditional obligation; and yet they say it could not be executed!

The operation is somewhat explained by the report we discuss to-day; the committee say: "The Mexican rentes of fifty-four millions, converted into obligations, ceded to the discount bank, have been reduced to 42,857,200 francs."

The difference, then, to the treasury, is not two and a half millions of francs, as stated by the minister of finance in his report for 1865, but a loss of eleven millions, the difference between fifty-four millions and forty-two millions, to have been paid by the concessionaries. And who are they? Nobody can discover.

Now let us look at the result of the operation. The obligations sold were negotiated at a time when their rate was 340, and yet the company that owed the forty-two millions to the state, what did they pay? Only fourteen million two hundred and eighty-seven thousand francs; so that the real loss to the treasury is not only eleven millions, as we have mentioned, but several millions

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more. Fifty-four millions were given for forty-two millions, and the purchasers at three hundred francs sold for three hundred and forty-one, doing an excellent business.

What, then, were the circumstances of *vis major* that prevented the execution of the contract? It is a loss of twenty-five millions to the treasury. And what has the treasury to show for it? Instead of forty-two millions, it has received fourteen millions, and twenty-eight millions in Mexican bonds; and we all know how much Mexican bonds are worth.

We have then the right to ask who are the concessionaries? I think I am not mistaken when I say they are the persons to whom the Mexican bonds were ceded in 1865 for three hundred francs; the same persons who issued the first loan of rentes and lotteries, and who made such profits; and they did not merit the preference shown them.

In May, 1865, the concessionaries of the loan received the titles at the rate of three hundred francs and sold them for three hundred and forty, and then the loan was closed. There was a margin of forty francs on each bond, making twenty millions profit on the five hundred thousand bonds.

I do not say the company made a clear profit of twenty millions, for there were the costs of negotiation; but we cannot accept the company's declaration that a second contract was impossible. The Mexican loan was converted into obligations of a second series, exactly similar to the first; and what is more, the same concessionaries proposed to take the obligations of the second series, which they received at three hundred francs, for three hundred and forty-five francs, and they even advertised them for three hundred and forty-five francs.

That took place in 1865, when circumstances were favorable. Now, if these concessionaries are the same that made the contract I have mentioned, how do they cause a loss of twenty-eight millions to the treasury, when their duty was to pay forty-two millions, and receive a receipt in full when they pay only fourteen millions into the treasury? I do not see why they are so favored; it is a question that ought to be explained to this house.

I have a few more questions to ask the minister of finance on this Mexican business. What were the conditions of the contract? What circumstances gave the right to a company that had made such immense profits on two series of obligations not to pay the forty-two millions it owed to the treasury? That ought to be explained.

It has often been said that the sole motive for the Mexican expedition was to insure an indemnity to the French residing in Mexico that suffered losses previous to the expedition; and such was the tenor of articles in the treaty of Miramar. Articles 11 and 12 stipulate that a sum of twelve millions shall be reserved for our countrymen who have suffered losses. This twelve millions was to be realized by a board, presided over by one of our well-known bank directors. And where are those twelve millions?

In 1866 a convention was drawn up by Mr. Dano, fixing the indemnity for the French injured previous to the expedition at forty millions, including twelve millions by virtue of the treaty of Miramar; and to these twelve millions, representing a nominal value of sixteen millions, are to be added twenty-four millions by the convention of 1866. And how much of this will the poor suffering French get?

What has become of the twelve millions remitted by Mexico in virtue of the treaty of Miramar, and of the twenty-four millions that were to have been remitted in virtue of the convention of 1866? This is an important question, and its solution would shorten debate in this house on the Franco-Mexican financial affairs. We would all like to know to whom said payments have been made.

There were a variety of creditors, or people who pretended to be creditors. You know it was the amount claimed for the French that caused a diversion

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of the English and Spanish at Soledad. Now I would like to know if some of the paid creditors were not of those privileged persons. That is my second interrogatory to the minister.

When the diplomatic documents were distributed last year, you learned it was inconvenient to publish the diplomatic documents relating to the new government in Mexico; and of course we have received no government despatches to its agents in Mexico.

After that it was decided to publish the correspondence between France and the United States on Mexican affairs; but we have had nothing from our special agents, as Mr. Saillard and General Castelnau, who went to Mexico to investigate the acts of Marshal Bazaine.

Now that all is over, when things have come to a deplorable end, I wonder if they will not give us their history, to let us judge properly of what the government has done in this lamentable expedition. We ought to have all the facts of this disastrous expedition from beginning to end. I opposed it at the first, and insisted that it could have but one result; and that has come.

At the close of Mr. Berryer's remarks, Mr. Rouher, the minister of state, took the floor.

Mr. ROUHER said: The honorable gentleman has put three distinct questions to the government:

1. Where are the fifty-four millions paid to our credit by the treaty of Miramar?

2. What has become of the Mexican indemnities?

3. Where are the political and diplomatic documents we need so much for the proper discussion of this Mexican question?

I will endeavor to answer them to your satisfaction.

The question of the fifty-four millions in Mexican bonds, in execution of the treaty of Miramar, must be considered in a two-fold view: the use made of the money by the state, and the negotiation of the bonds by certain bankers. This sum was distributed as follows: forty millions were assigned to the budget of 1864; thirteen millions had been appropriated to the resources of the budget of 1865. Mr. Fould, in his finance report for 1865, said the loss on these bonds to the public treasury was about two millions of francs. But he only reckoned the interest on them.

Now how did this happen? I will tell you. The first issue of bonds bore six per cent. interest. It was negotiated by an English house, assisted by a French bank. One year after, a second operation was effected, namely, an issue of five hundred thousand Mexican bonds, deliverable to the public at three hundred and forty francs.

Mr. Berryer said the issue was made by the same bankers that negotiated the first loan of fifty-four millions. The negotiation of the bonds of the second loan was not made with the government; it was made with the committee of the Mexican finances. I do not know what bankers were concerned in the operation; but it ought not to be imputed to the French government. After this loan, the question of converting the rentes of 1864 came up, and they were reduced to six per cent. The first loan had five hundred thousand bonds, and its conversion gave the same number of new obligations.

The conversion was therefore decided on, and the government had to change its six per cent. bonds, and to alienate the 174,000 obligations it held. This was begun in September, 1865. The bonds held by the state were disposed of at 300 francs per bond. The payment of the sum due the state was to be made in twelve instalments, and the bonds were to be delivered as these payments were made. Thus, when a twelfth of the credit was paid, the number of bonds representing the sums received were stamped and delivered to the concessionaries, so that the state only relinquished its bonds when cash was paid for them at its counters. I mention this to show that the bonds held by the

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state as security were not delivered as soon as the contract was made. The contract even allowed eighteen months instead of twelve for the terms of payment; and, finally, a clause of the contract stipulated that in case of *vis major*—that is, if the Mexican government was overthrown by revolution—the treaty should be considered null. This treaty was executed between October, 1865, and March, 1866. Fourteen millions were given to the state, and bonds for 14 millions were delivered to the concessionaries by the minister of finance. As early as 1866, Mr. Pinard announced officially that the concessionaries demanded the benefit of the eighteen terms. The French government had made known its intention to withdraw its troops from Mexico at three periods: in October, 1866, in the spring of 1867, and in the autumn of the same year.

It is hardly necessary for me to state that the troops were all withdrawn at once in February.

Mr. BERRYER. No; the United States was the cause of that; it was to save a quarrel with that country, and that would have been a very different thing.

Mr. ROUHER continues. Just at that time there was a very sudden fall in the value of Mexican securities. The depreciation was so great the bonds fell to 140 francs, and I believe even to 120, and the concessionaries appealed to the clause of *vis major* in the contract, asking to suspend their payments and not receive any more bonds.

The business thus stopped, the minister of finance was left with all the signed bonds on his hands, except the fourteen millions which had been exchanged for paper. The government did not ask if profits had been made on the first loan; it had no right to do so. He examined the contract; he considered the political reasons for withdrawing the French troops, and he found it impossible to force the subscribers to the contract of 1865 to comply with their obligations, because they were overcome by supérhuman force, and the bonds were worth nothing. Must I go into a discussion to justify this? I do not think it is necessary at present.

Mr. Berryer's first question needs no answer; it is sufficiently plain.

According to the terms of the treaty of 1864, a sum of twelve millions in six per cent. stock was appropriated to secure the payment of indemnities to our countrymen. The same treaty stipulated that the indemnities should be liquidated by a committee formed in Mexico, and composed of Mexican and French agents in halves; it also agreed that when the work of the committee was concluded, the total of the indemnities should be reclaimed from the Mexican government. But this arbitrating committee in Mexico had not full power; there was another committee in Paris to supervise its decisions.

After 1864 the Mexican committeee went to work slowly; they were not punctual to the time fixed for the examination of questions for their consideration, and the French members had to act alone.

As to the twelve millions in six per cents., the titles were deposited in the hands of the minister of finance, who collected the interest for the first two years, and afterwards the capital.

In 1866, while the Mexican commission was attending to the liquidation of the indemnitary claims, the government thought proper to forfeit all the indemnities, and a convention was called for that purpose in July, 1866. That convention fixed the indemnity due our countrymen at forty millions. Sixteen millions had already been paid, and there remained twenty-four millions due which were never paid. In 1866, certain customs conventions mortgaged the revenues of the Mexican custom-houses to the French government. Our claimants will profit by that arrangement, and they will have their due portions.

Now I come to the third question. Mr. Berryer demands from the government the publication of certain diplomatic documents, and information about several missions at different times. In 1866 all the documents of interest to the

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house, concerning our relations with the United States and Mexico, were published, though refused at first for very good reasons.

If Mr. Berryer wants information in relation to Mr. Saillard's mission, the government is ready to furnish it; and if he wants to know something about General Castelnau's mission in 1866, we can give that too. In regard to diplomatic documents, I say there are none to furnish to the House at present; and at this grave conjuncture in which the sovereign of Mexico finds himself, it would be inconsistent with the interests of that government to publish documents detailing discussions of no interest now to our government, and which might be very harmful to Mexico.

The government is ready to discuss this serious Mexican question; but it is not ready to furnish diplomatic documents that would compromise the interests of both countries.

Such are the explanations I have thought proper to communicate in reply to Mr. Berryer's interrogatories.

PRESIDENT SCHNEIDER. Mr. Berryer is now entitled to the floor.

Mr. BERRYER. My thoughts were far from wishing to call for the publication of any documents that might injure the monarch we have led to Mexico; but the honor and dignity of the country demand an account of this deplorable Mexican expedition. I do not inquire into the quarrels that have arisen between the French authorities in Mexico and the agents of one whom we have tried to establish upon the Mexican throne. No; let us be silent on that point; his delicate situation demands it.

Fortunately, all that relates to communications from the French government to its agents in Mexico, the important instructions to Mr. Saillard, and the more important ones to General Castelnau, will be made known to us in time. They will throw much light upon the subject, particularly those showing the relations of the French government with the United States.

I will say nothing, provoke nothing, to injure the position of one who is now a prisoner, and has perhaps already received his sentence. I return to the finance question.

I am glad to learn that the values assigned to French creditors by the treaty of Miramar and the convention of 1866 are now deposited in the treasury; we will see that they are properly disposed of when the time for debate upon them arrives. I am also pleased to learn that reports of certain payments to uncertain creditors are false. I have not disputed the civil appropriations; they were carefully arranged, and for the proper sums. The arrears of the Mexican rentes were placed on the budget, to supply the unpaid capital; thus the amounts of the civil appropriations for 1864 and 1865 were balanced. Now about the loss caused by the negotiation of the fifty-four millions. From the report of 1865, that loss seems to be over two million eight hundred thousand francs; but when the sale was made, it amounted to forty-two instead of fifty-four millions, making a loss of twelve millions.

But besides the public facts which were considered as a case of *vis major*, to relieve bankers from their obligations, there is the text of the contract, which the minister explains in a satisfactory manner; but I regret that the committee that accepted the consequence of the treaty did not have it before them, and give it to the house; there would have been no impropriety in that. I have asked myself if the bankers thus favored were not the same that negotiated the first obligations, to the number of five hundred thousand, at a profit of forty francs each, making a benefit of twenty millions in all. If they were the same that made such profits, with a loss of twenty-eight millions to the state, they should not have been released from their engagements.

These persons' names are well known to the public; it is not necessary to mention them; but I demand the production of the contract, that we may examine it and see how the state has lost so much by adhering to it.

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The MINISTER OF STATE takes the floor. Gentlemen, Mr. Berryer is surprised that your committee on supplementary credits for 1866 did not ask for the publication of the treaty of the 27th of September, 1865. The reason is very simple: the discussion of the credit bill for 1866 did not touch the treaty of Miramar and the fifty-four millions derived from it. I understand perfectly, however, why the committee ask information; they want it for discussion.

Now Mr. Berryer asks to see the treaty. I see no objection in making it known to the house; but what he has said in relation to certain bankers, I know nothing about it or them. When he said certain bankers had negotiated the first series of bonds, I remarked that their names might be known to the house, but I did not know them. I still say I am ready to give the treaty to the house. Now we will discuss the question of *vis major*.

Mr. Berryer has already noticed the declarations of the government, and I will not return to them; but I fear I was misunderstood in my answer to his third question. He seems to think I promised to publish instructions given to our special agents in Mexico. I say distinctly I made no such promise for the government; I will answer any questions of general interest that are put to me; but I must say to the house, it would be incompatible with the public good to publish certain correspondence between the French and Mexican governments. I am ready to answer questions here, but I must be excused from promises to publish documents that would benefit nobody.

As to the treaty, if you think it necessary in the discussion of the credits for 1866, in relation to Mexico, I am ready to produce it, and the government will abide by the house decision on the subject.

Mr. BERRYER rises to speak. I was obliged to follow the committee in its labor. To render a proper account to the house of our financial situation with Mexico, the committee had to examine facts. Well, to facilitate this examination, I ask for all the documents. It is evident that upon this question of Mexico it would be difficult to form an opinion if no documents were furnished.

Mr. ROQUES-SALVAZA now asked permission to speak it was granted, and he said:

I do not ask for the floor to enlighten a question brought up by Mr. Berryer and thoroughly answered by the minister of state. But Mr. Berryer said it was the committee's duty to call for the treaty and the documents relating to its execution. I have the honor to be president of that committee, and I must say I think this business does not belong to the committee, whose sole duty is to discuss the supplementary credits asked by the government for the year 1866. How the committee came to examine the question is in this way: Among the supplementary credits demanded by the government in the bill to be examined by the committee, there was a sum for the expenses to bring back our army from Mexico, and by a sort of instinct, a patriotic curiosity, the committee turned its attention to Mexican affairs in general. It was an anticipation on our part, and it was exceeding our duty, and the government was justified in refusing documents we had improperly asked for. It happened in this way: We said they ask money for expenses connected with the Mexican expedition; we must look into it. What did the expedition cost? This was natural enough. Yet the government might have said: Leave that case to the budget committee; ask no questions but such as pertain to your business. Why do you ask what the Mexican expedition cost? All the budgets since 1861 have contained similar expenses; and it is more properly to the budget committee, rather than to the committee on supplementary credits, that we ought to furnish the information you ask.

That is what the government might have said. But we got the explanations asked for, and we found out something about the expenses of the Mexican expedition. We then said to the government, Here is the sum total of the costs of the Mexican expedition for six years. Was there no set off to this account?

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Were there no receipts of funds from Mexico? You have issued two loans; we hear of losses by them, but of no profits. The government explained its receipts from Mexico, on account of the loans, and we find the sum of fifty-four millions reduced to forty-two millions, and finally to fourteen millions.

Now, I ask Mr. Berryer, whose loyalty is undoubted, how he can suppose it the duty of our committee to examine the different treaties and all the documents relating to the Mexican affairs.

President Schneider here proposed to postpone the debate on the bill for supplementary credits of 1866 till the next day.

The proposal was accepted, and the house adjourned at 6¼.

CELESTIN LAGACHE,
Chief Stenographer.

[From the Moniteur Universel, the official journal of the French empire, No. 175, June 23, 1867.—Translation.]

LEGISLATIVE ASSEMBLY.

SATURDAY, *June* 22, 1867.

Mr. SCHNEIDER, presiding. The order of the day is the deficiency bill for 1866. Mr. Glais-Bizoin is entitled to the floor.

Mr. GLAIS-BIZOIN. I will not bring up the question of the Mexican expedition surreptitiously—an expedition fatal in every point of view and to all eyes except to mine; for I have always regarded that expedition as a providential occurrence, necessary to demonstrate to the country the perils of a personal government that has the care of the lives and fortunes of a great people. (Mr. Glais-Bizoin is called to order by the president, and told that he must not have that question as a pretext to attack the constitution and the situation of the government.)

Mr. GLAIS-BIZOIN continues: If the opposition will not have a general discussion of the Mexican expedition on this occasion, I cannot be refused the privilege of saying what I think on the subject. I repeat then that the country was in need of this example to understand the dangers of a personal government, and that if it is not now aroused—— (He is again called to order. Continues:) I will not retract what I have said, and must repeat that, if the country had not waked from its torpor in 1863, the Mexican expedition would have been to the new empire what the Spanish war was to the first. I am convinced that, to carry out what some call the greatest thought of the reign, would require what we could not afford; and we would now have 80,000 men in Mexico, and war with the United States, and perhaps with the whole world, if we had attempted to carry it out. That is my belief, and I express it only to arrive at the following question: Among the credits asked of us I find this expense: pay for the Austro-Belgian brigade, 4,600,000 francs; provisions, 867,500 francs; making a total of 5,467,500 francs. How this expense is accounted for in the report I cannot see. I will give the terms of the report, and the house may judge for itself.

After a cursory glance at our financial situation in Mexico, we must examine the items of the expedition outside of the appropriation for the fiscal year 1866. "A sum of 5,467;500 francs was spent in pay for soldiers and provisions for the Austro-Belgian brigade and the counter-rangers. Another sum of 1,838,000 francs was spent for transports to follow the army. These expenses were to have been paid regularly from the Mexican treasury, but it was completely empty." (We are not astonished at that.) "The security of our army forced the French government to assume these expenses temporarily."

Such are the words of the report. The word *temporarily* brought me to my feet. I would like the government or the committee to tell me what *temporarily*

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means, and who is to pay these expenses in the end. But let me say that I am astonished that the French government assumed these expenses even temporarily. The French government did not enlist the Belgian and German troops for Mexico, and agree to pay for their transportation? Why should it then take charge of them and pay for them when Maximilian's funds fail? Those unfortunate Belgians and Germans ought to be paid by the Belgian and Austrian governments, that were accomplices in this expedition by authorizing the enlistment of troops for it in their territory.

These remarks are for the house, and I now repeat my interrogatory, what does *temporarily* mean in the sentence I have cited?

In the mean time, I demand the *temporary* rejection of the credit of six millions.

General ALLARD now takes the floor and says: I have but a word to say to this house. The word for which interpretation is demanded is very plain; the meaning is this:

On the 1st of May, 1866, the Mexican treasury was not in a condition to pay the Austro-Belgian brigade. The brigade was employed to help us in the expedition. Now, was it prudent or proper to let those troops be disbanded for want of money and provisions? Certainly not. What did the French government do in the case? What it has often done in such emergencies: it advanced to Mexico the funds necessary to pay that brigade. The word *temporary* means that those expenses were only an advance, to be charged to the Mexican debt.

Mr. GLAIS-BIZOIN. Well, charge it then.

Mr. ERNEST PICARD then arose and said: I do not rise to discuss the question of the Mexican expedition. Mr. Berryer told you all about it yesterday; but I join him in his call for the treaties, conventions, and other documents relating to the Mexican loans, the bonds, and their holders and negotiators. I hope also that circumstances will permit us to have some of the diplomatic documents passed between the French government and its agents in Mexico.

The Mexican expedition has always been presented by the government as a necessity. It was said we had grievances to redress in Mexico; our countrymen were imposed upon there. Then there must be other documents of great importance that have not yet come into our hands, and which we ought to have; documents containing the claims of French creditors, who believe themselves entitled to indemnity. I do not see why we cannot have those papers now, and I move to call for them. I hope the government will not object to furnish papers with the accounts of its creditors against Mexico. They certainly exist, as they gave rise to the expedition which was to redress the wrongs done our countrymen, and to obtain satisfaction for injuries, the legality of which we are called upon to decide.

And in speaking of Mexican creditors, I would like to know if the Jecker bonds have been paid; if by a treaty of the 10th of April, 1865 or 1866, the sum of one million of dollars per year was not appropriated for the payment of that credit, and if the agents of the French government in Mexico did not make the arrangement.

This is all I have to say.

The PRESIDENT. The minister of state is now entitled to the floor.

Mr. BOUHER, minister of state and finance. If the house desires it, I am ready to give the text of the convention between the grantees of Mexican bonds belonging to the treasury and the minister of finance.

After the documents relating to the convention are read, they will be inserted in the report of this day's proceedings, and thus become accessible to all of you, without being published separately. If the house consents, I will read the document, and then reply to Mr. Picard.

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Here is the text of that convention:

"PARIS, *September* 28, 1865.

"Between Mr. Achille Fould, minister of finance on the one part, and Mr. Alphonse Louis Pinard, director of the Discount Bank in Paris, acting in his own name, and as agent for French and foreign bankers, on the other part, the following agreement has been entered into: In accordance with a decision of the Mexican finance committee, dated 26th September, 1863, the titles of the Mexican foreign six per cent. debt, issued in 1864, shall be converted into obligations of 500 francs, with the consent of the holders, composing a second series, enjoying the same advantages as the obligations issued for the Mexican loan of 1865. As the treasury holds by the stipulations of the convention of Miramar 600,600,000 francs of the Mexican three per cent. rentes of 1864—namely, 5,400,007 francs of the war indemnity, and 1,199,998 of the indemnity due to French subjects—the above titles shall be converted into 164,603⅓ obligations, on terms stipulated by the decision of the 26th September, 1865, to wit, 142,857⅓ obligations for the public treasury, and 31,746 obligations for the indemnitaries.

"Mr. Pinard proposing to purchase said obligations, the undersigned do agree as follows:

"*Only article.*

"Mr. Pinard buys from the public treasury the 6,600,006 Mexican six per cent. rentes for 1864, giving therefor 174,603⅓ obligations of 500 francs of a second series, enjoying the rights and advantages stipulated in the decision of the Mexican finance committee on the 26th September, 1865.

"This purchase is made at the net and firm price of 300 francs per obligation, possession to be given on the 1st of October, 1865.

"The sum of 52,380,000 francs shall bear interest at three per cent. per annum from the 7th November, 1865, and shall be paid in twelve equal monthly terms, the first falling due on the 7th of November, 1865, and the last on the 7th October, 1866.

"Mr. Pinard may have the privilege of anticipating the payments of one or more terms, and in such case shall be entitled to a discount of three per cent. a year. The obligations shall be given to the contractor after being stamped. The chances resulting from the drawing of the lottery every six months, for the payment of the obligations, together with the primes and coupons, with interest up to the last payment on the 174,603⅓ obligations, shall belong by right to the contractor.

"Done in duplicate at Paris, on the 28th September, 1865.

"PINARD.

"Approved by—

"ACHILLE FOULD."

Now comes the correspondence preceding that convention We give Mr. Pinards letter first:

"PARIS, *September* 28, 1865.

"MONSIEUR LE MINISTRE: Before signing the contract by which I take at my risk and peril the 174,603 Mexican obligations in the public treasury, representing a sum of 523,81,000 francs, permit me to stipulate a reserve, the justice of which you will ackowledge.

"In case of *vis major*—that is, if the Mexican government is overthrown by a war or revolution—the contract shall be wholly rescinded, without indemnity to the party who is to execute it.

"In case I find a difficulty in disposing of the sixty-nine millions of francs in Mexican bonds that I purchase in twelve months, you will extend the terms of payment to eighteen months, adding, of course, the three per cent. per annum to each instalment.

"If your excellency approves of the reserves I mention, I beg you to notify me.

"I have the honor to be, &c., "PINARD."

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The reply on the 28th September is conceived in these terms:

"SIR: I hasten to acknowledge the receipt of your letter of to-day, and to inform you I freely consent to the accidental conditions you mention therein; consequently the proposed contract, in cases you specify, may be rescinded or prorogued at will.

"Accept, sir, &c.

"ACHILLE FOULD,
"*Minister of Finance.*"

Those are the three documents I have thought proper to read to the house, in answer to one of Mr. Picard's questions. He has put two other questions to the government: one relating to the indemnity due our citizens; the other relating to the Jecker claim.

In regard to the indemnity, all the papers are in the department of foreign affairs, and I presume the house will not call for them, as it will be unnecessary, and even useless. But if Mr. Picard wants information of any particular affair, he has the right to ask it. I can tell him the sum of French claims is about one hundred and fifty millions, and is now under consideration by the chief committee in Paris. As to private claims, it is impossible to give the details of the three or four hundred. I must make one observation on the third question; I do not think it right for members to take the floor on one pretext, and then slander the government.

In regard to the Jecker affair, I remember the calumnies against the government on account of it. The government had nothing to do with the negotiation of the Jecker credits in 1866; it was opposed to it, because it interfered with the execution of the convention of Miramar, and the guarantees and resources especially reserved for those governments that had their troops on Mexican soil.

(Mr. Picard rises to make an explanation.) The Jecker question was suggested to me by an article I read in a Mexican official paper, the NewEra.

The MINSTER OF STATE. I have enough to do to read French papers, without reading Mexican papers.

Mr. PICARD. Perhaps the French government would learn something by reading more foreign papers.

As to the papers relating to the French indemnity creditors, I don't want the originals, only the amount of the claims and their dates. The minister knows when we vote to appropriate money we ought to know where it is to go, and for what; and I am thus interested in knowing the number of creditors in this case, and the justness of their claims.

Mr. GLAIS-BIZOIN. The government should not be so sensitive about the Jecker affair, for it is a historical fact that the convention of Soledad was broken on account of the exorbitance of French claims, and that was the principal one.

The MINISTER OF STATE. Two words in reply to Mr. Glais-Bizoin. It is certain that the Jecker affair was mentioned at Soledad as one of the causes of non-agreement. It was a loan by the banking-house of Jecker & Co. to Miramon, the president previous to Juarez. It was so arranged that the bonds were receivable for custom-house dues. Now, the Jecker house had disposed of a quantity of those bonds to our people, who offered them at the custom-house in Vera Cruz and Tampico; but Juarez refused to accept them, and the consequent loss was the origin of that French claim.

Another circumstance occurred about this time. The house of Jecker held on deposit the funds of a French mutual aid society, by which our countrymen helped each other in case of distress. The house suspended payments, and the French company was ruined. On account of this, Mr. Dubois de Saligny put in claims for these people upon the republic of Mexico. This was in 1861. In 1862, when France was adjusting its claims against Mexico, these claims were included, and it was insisted that the bonds should be received for custom-house

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dues at Vera Cruz and Tampico. And that is the way the Jecker claims came into notice at the Soledad convention.

Mr. GLAIS-BIZOIN. What the minister of state has just said justifies my allegation. In fact, he does not deny that Mr. Jurien de la Gravière signed the convention in the name of the government, and therefore the government is responsible for the war with Mexico, because it refused to ratify a convention signed by one of our representatives, whose loyalty was undoubted.

Mr. HAENTJENS. I cannot consent to adjourn till I inquire of the government what is to be done for the Mexican bondholders.

Mr. GLAIS-BIZOIN. They will be paid out of the civil list.

Mr. HAENTJENS. We are pressed with petitions on all sides from these bondholders, to know what relief they are to expect. As the constitution does not permit us to present these petitions here, I have sent them to the minister of finance. No answer to them has been received, and I would like to know if we are to get an answer before the close of the session.

Mr. ROUHER. I beg the house and the honorable gentleman to excuse me from making any reply to the question proposed to the government, lest it become a pretext for discussion outside of this house.

Mr. ERNEST PICARD. If any gentleman wishes the floor to justify the votes that were given for the Mexican expedition, we will hear him.

Mr. PAGEZY. If I discuss the Mexican question I will not do it as Mr. Picard does. I am not a friend of Juarez; I am a friend to France.

Mr. PICARD. One would not think so, to hear you speak against its interests. There is a requisition for five millions, made by the marshal commanding the French army in Mexico, and an overdrawing of three millions more charged to the treasury. There has been no settlement of these expenses, and a credit was opened by the government without the usual guarantees for deficiency credits opened by the executive power. Well, the government cannot deny the brutality of the fact; and as to the reporter who is pleased to see the end of the Mexican expedition, he tries to justify the illegality I am now denouncing. "The payment of 8,827,683⅓ francs effected by the minister of finance is less regular. It was not authorized by law or decree of transfer rendered by the Emperor in the council of state. But to justify the government we must allow its council decree to suffice for ordinary expenses; but it is quite different for expenses incurred in distant countries." It is very convenient to enact decrees, and then excuse their execution by alleging that they concerned expenses incurred in distant regions. I think there are causes to which we must yield; and when they concern the fate of our army I will not dispute them. We might have foreseen this expense in 1866; the condition of Mexican finances was known; the Mexican government was wavering; it could not pay its troops; and yet you kept all this secret, and now you see the fatal consequences.

Mr. ROUHER. The other Mexican expenses that have not been settled by transfer decrees are two; one is not properly an expense, but a loss to the treasury, for which the government is obliged to ask a credit from this house; the other is a war expense. The loss was 3,500,000 francs. Ever since the first Mexican loans that government has had funds arising from them in the hands of the Mexican finance committee, in Paris, and it was necessary to send these funds to Mexico. Now the French government had a service organized to carry funds from France to Mexico for the support of the army there. It was arranged between the two governments that the French government should send funds to Mexico, and receive drafts from the government there, to be paid by the proceeds of the loans here. The two last drafts have not been paid by the Mexican committee, causing a loss to the treasury. For a loss of that kind the government could not proceed in the regular way, and open a credit by a transfer decree. There is no credit opened yet, and the one now proposed to

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the house is to reimburse the treasury for that loss. As to the five millions, forming another element of the eight millions, the documents submitted will show all about them. Marshal Bazaine, to help the Mexican government, asked a subsidy of two and a half millions of francs per month from France; and the convention was immediately executed, though the marshal had reserved the ratification of the French government. As soon as the French government was informed of this state of things, it did not think proper to ratify what had been done, considering the condition of Mexico, and it instructed Marshal Bazaine to stop the execution of the convention. Thus, two and a half millions were paid the first month, and the same amount the second. I ask the house if this is not all very natural. Marshal Bazaine had to yield to necessity, and the French government did its duty.

Mr. PICARD asked why the five millions were not asked of the house, and why it could not be seen the Mexican treasury was empty. The French government was so far from foreseeing these events, and so far from believing they would require a subsidy from France, that it gave immediate instructions to annul the convention and stop the monthly payments of two and a half millions of francs.

Such, gentlemen, are the explanations I wanted to make to this house. I have not referred to the muskets; I leave that subject to General Allard to explain, if the house requires any information on the subject.

The MINISTER PRESIDING THE COUNCIL OF STATE. Gentlemen: The thirty-five millions of Mexican values do not appear in the budget of 1865. In the budget of 1865 we find twenty-five millions as the indemnity stipulated by the treaty of Miramar. The final account of 1865 shows that this sum of twenty-five millions was paid in specie to the treasury. There is another sum receipted in the budget of 1865, namely, titles of various sorts, amounting to thirteen millions. In the amended budget for 1865 it was reduced to ten million eight hundred thousand francs. Of this only two millions have been paid, and eight millions remain. So, out of the thirty-five millions coming from Mexico, twenty-five millions of the Miramar indemnity have been paid; two millions of the ten were paid, and over eight millions remain in the vaults of the treasury.

These facts being established, I will now show the house what I said about the surplus receipts of 1865 is also without doubt. The excess of receipts for that year is twenty-one millions, as you know. 12,224,000 of this sum was placed to the budget of 1866, and over nine millions remain; so that, if the eight million one hundred and fifty-seven thousand francs of Mexican titles are never paid, the nine millions will be reduced so much, and there will be more than one million left in excess of the receipts for 1865. Such is the explanation I had to make to Mr. St. Paul.

Mr. DE ST. PAUL. Ah, now I have the general account of the finances of 1865, and we find it amounts to 35,857,000 francs of Mexican values. My random question was not lost on the minister, and I hope the house is satisfied with his explanation. I did not arise merely to kill time; I wanted to get information, and I have succeeded in obtaining it.

No. 1.

[From Le Temps, Paris, June 25, 1867.]

On Friday last, after a warm debate on various subjects, Mr. Berryer brought up an incident which is the preface to debates on the budget. This was nothing less than the Mexican business, a sad affair, so mixed up with our finances that we find it in every daily discussion, in the final account of 1865, in the amended budget of 1866, in the supplementary credits for 1867, in the provisional budget for 1868.

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However unpleasant it may be to the government and its advocates, the Mexican question must be resifted this year, its finances adjusted, and its results ascertained. The time for its liquidation has come, and it will be the great feature in the discussion of the items in the budget.

The amendments to the supplementary credits of 1866 have caused Mr. Berryer to doubt. The treasury report shows that out of fifty-four millions in Mexican bonds fourteen millions were sold, and 95,232 bonds remained, of no value. Now, Mr. Berryer tells us that Mr. Fould, in his report of 1865 to the Emperor, says those bonds were all sold for forty-two millions of francs, and the amount was divided between the two budgets. How is it then that the treasury still has two-thirds of those obligations, when it was reported that they were all sold? Did the minister of finance tear up the contract, and relieve the bankers from their obligations as soon as the business began to turn against them? But Mr. Berryer says the same bankers bought the bonds from the treasury that had issued the 500,000 a few months previous. The first operation was a profitable speculation for them; was it just then to secure them from loss in the second affair? By what authority did the minister rescind the contract? and was its recision justified by circumstances?

Such are the grave questions that Mr. Berryer has suggested, in asking for the papers to be laid before the house. We think he has done much good to the bondholders. The documents were read next day by Mr. Rouher, and they have been published. The result is, that in September, 1865, the treasury held, by the treaty of Miramar, 174,603 bonds, 142,857 belonging to the state, and 31,756 reserved for indemnitaries. These titles were acquired at the rate of 300 francs, by Mr. Pinard, acting in his own name, as agent for a company of bankers and capitalists, both French and foreign. The sum was to have been paid in twelve equal monthly instalments, to begin on the 7th November, 1865.

As a complement to that contract, dated 28th September, Mr. Rouher read two letters between Mr. Fould and Pinard, written before the contract was signed. Mr. Pinard's letter stipulates that, "in case of *vis major*—that is, if the Mexican government is overthrown by a war or revolution—the contract should be rescinded." The contracting party reserves the right "to extend the term to eighteen months, instead of twelve, in case there was a difficulty in selling the bonds in that time."

In his answer the minister "acknowledges the receipt of the preceding letter and accepts all its conditions."

These documents show the real nature of the negotiation. It is plain there is no sale where the purchaser accepts the risks, but a conditional bargain, or more properly a commission business.

The celebration ended with September; the day after Mr. Corta's and Mr. Rouher's speeches 500,000 bonds were taken by the public, and the next day their value was doubted. In July these bonds were quoted at 310, that were to have risen to 330 in September.

It did not turn out as expected; in fact, it was a simulated sale, one of those operations in which government appeals to the devotion of bankers, who were very willing to lend their credit, experience, and influence to government, but they were not willing to do more, and wanted a chance to escape from loss, if the operation promised to be unprofitable; and, as far as they were concerned, they were perfectly right.

After four monthly instalments had been paid, amounting to fourteen millions francs, these bankers invoked their right to suspend. Was it a case of *vis major?* The Mexican government had not yet been overthrown by war or revolution. True, it had received a death-blow: the United States veto had been pronounced. The vaunted resources of the Mexican government suddenly diminished; the bonds fell into disrepute. On the 15th of January, 1866, one

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month before the suspension, was sent the noted despatch to the French minister in Mexico, saying the French government was tired of encouraging loans, and the Mexican empire must rely upon itself. It had already been determined to recall the French troops. Could the minister, who knew that, allege a case of *vis major?*

Mr. Berryer says the bankers ought to have been compelled to comply with their contract, because they had made a handsome speculation out of the first loan, having bought at 300 and sold at an average of 335, during the last four months of 1865.

The bonds finally fell to 120, and then the government had to give up all hope of compensation.

These financial miscalculations would not trouble us much if they concerned only the treasury and a few wealthy speculators; but the government must know that bankers don't buy bonds to keep; they are bought to sell, and the money comes out of the people's pockets at last. The trusting and unarmed multitude must suffer; and the government will soon know this from an investigation that has been made, and will soon be laid before the legislature.

Now, when the discredit of the Mexican bonds is evident, the government uses all its forces to raise them in value, not on Maximilian's account, but for the benefit of the public treasury, and to balance the future budget. Is not that a strong argument for the bondholders, when their case shall be called before the corps legislatif?

ANDRÉ COCHUT.

No. 2.

[From the Avenir National.]

PARIS, *June* 25, 1867.

The discussion of the budget begins after to-morrow. It promises to be lively, and the Mexican question will certainly give zest to it. After the dialogue on Saturday between Mr Haentjens and Mr. Rouher, it is evident that the house will be called to judge of the situation of the Mexican bondholders.

The Mexican expedition is a political disaster; if it is also a financial disaster, as some think, its weight upon the government will be grievous. It is not only a question of policy, but of honor. Let us look at the facts.

We find a government trying to regenerate Mexico politically and civilly by the sacrifice of French lives and French money. The enterprise was silly, and the obstacles great. The debt of Mexico was so great and its credit so low, its bonds could be had in London at twenty per cent., if any one wanted them. As to the Archduke Maximilian, he had to leave Miramar for debt. Now money was wanted everywhere, and it could be raised only by loans, and these loans could only be negotiated in France. Conceived and patronized by the government, the plan succeeded. Let us see how.

On hearing of this proposed loan, the English creditors, sadly in want of their pay, called meetings and declared theirs was the privileged mortgage on Mexico. To quiet them, they were promised that the first twenty-four millions of the loan should be sent to London, and the sum was sent.

We said Maximilian was in debt, and he could not leave Miramar and accept the throne of Mexico without some arrangement with his creditors. To help him out, eight millions of the first loan were sent him from Paris.

It was well known that Mexico never paid its debts; but its credit was to be raised by promises to pay the interest of old debts by funds from the new loan; so a sum of forty-nine millions from the two loans was to be reserved for that purpose.

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In execution of the convention of Miramar, the future emperor decrees a finance committee of French, Mexicans, and English; and to show French prominence, the committee was to reside in Paris, and Mr. Germiny, a senator, ex-minister of finance, ex-governor of the Bank of France, should be its president and represent the French creditors. A duplicate of the ledger was to be sent to Mexico, and the original was to remain in Paris. All the decrees of the future emperor were published in the Moniteur just like French decrees.

The loan had a good puff in spite of prudent men who advised circumspection, and was successful.

Mr. Berryer opposed it in the assembly, because France seemed to encourage it according to the prospectus. Mr. Rouher is indignant at the doubts about Mexican resources, and does all he can to show the solidity of the loan. But he was mistaken; for, in less than a year, on the 10th of March, 1865, he declared to the assembly "that new resources were indispensable to complete the conquest."

A second loan is determined on, to be managed by Mr. Germiny and Mr. Corta, who had been sent to Mexico to examine the resources of the country; and it was made under the superintendence of the minister of finance. On the 30th June, 1865, we read in the Moniteur: "Messrs. Barron, Bourdillon, Count Germiny, and Mr. Corta have arranged the conditions for the new loan." The terms being arranged, the whole army of French financiers is brought into the field to assure its success. It was to have been issued on the 22d of April, but the bankers that engineer it are anxious to know if the government will not let its troops remain in Mexico until Maximilian is firmly seated on the throne.

On the 10th of April the subject is discussed in the assembly, and Mr. Rouher says:

"We are reproached for encouraging a Mexican loan when the finances of the country do not justify it; but Mr. Corta has just given you a glorious account of the resources of that magnificent country. Have no care; Maximillian will restore financial prosperity to the country, and furnish incontestable guarantees to those who trust him with their money. I repeat, this expedition is a great affair. By it France will conquer the civilization of a great country. Let its flag float a few months longer, till all resistance is subdued, and the bandits overcome; a few months more will do—the end will be gained; pacification will be complete. The French army must not return to our shores till its task is accomplished, and it has triumphed over all resistance."

(Applause followed this speech.) Mr. Jules Favre protests against the minister's eloquence that takes the place of facts. He is grieved to think that France, in the present condition of Mexico, would lend "its aid, its officials, and its money, to engage in unheard-of speculations." But the protest was vain, and the loan was opened on the 22d of April, with the consent of the minister of finance and all government agents. Before the close of the third day the 500,000 obligations were subscribed for, and 170,000,000 deposited with the Mexican commissioners by the French public. Such were the circumstances that opened, continued, and closed that loan. The influence of the government was seen and felt in every way, and therefore it is considered responsible. It not only facilitated the loan, in fact it issued it. But for official declarations and formal promises it would never have been taken; and, moreover, a large portion of the funds went to the state. There is no doubt about that. How then can the government refuse a just, equitable, and complete reparation to the bondholders?

Do not say they were tempted by high interest. Instead of using his seducing eloquence on this occasion, Mr. Rouher should have said: "This money we ask you for is to pay English creditors of Mexico, and Maximilian's debts;" then, do you think subscribers would have been so abundant and eager? No, certainly not. All that urged them to accept the loan was the government, and the government should not now resort to chicanery to avoid responsibility.

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Such an act in a person would be considered mean, and certainly would not be accepted by the government.

Such is the written opinion expressed by Mr. Marie, and concurred in by Mr. Allon, Ploque, Cremieux, and Leblond. These eminent jurists say:

"If the government has taken such a part in these loans; if it not only *facilitated* them, but *realized* them by its sole influence; if it pledged its name, the name of France, to such an extent as to make the public believe that France favored the loan, why should it not be responsible for acts done upon this encouragement? The lenders, now ruined, might say: 'I believed in you; I believed in your assurances, in your fine speeches, in your promises, in France, and now I am ruined!' Could you reply: 'You were wrong; you should have believed in the opposition, for though my authority was imposing, my language was deceptive, my responsibility is null; that is all.'"

No, that is not all. The conduct and influence of the government persuaded capitalists. To them its declarations were positive and decisive; therefore, between the government and the bondholders there is a real responsibility in every sense of the word, and there is a question of loyalty.

J. MAHIAS, *Editorial Secretary.*

No. 3.

[From the Gazette de France.]

PARIS, *June* 25, 1867.

Nothing is more unpleasant than this Mexican business, in whatever way you consider it. Mr. Berryer has handled it gently, and yet he called it "a shameful affair, where advantages were taken over poor people, and complaisance and condescension shown to contractors." It is very true these Mexican loans were a loss to the purchasers, and a gain to the brokers. The operation was so managed that the public and the state lost, while the brokers realized millions.

Mr. Berryer, who has followed this Mexican affair step by step, has clearly shown all the errors of the administration, and their deplorable consequences. Since Mr. Rouher's explanations, and the publications of the contract between Mr. Fould and Mr. Pinard, we can understand the progress of the negotiation. It certainly does no honor to the sagacity of Mr. Fould's administration.

In fact, from the stipulations, all the chances were against the state and the public, and in favor of the managers of the loan. We are surprised to see the treaty give the bankers the privilege of extending their payments to eighteen instalments from twelve, and permitting them to cancel their obligations in case of *vis major*.

This negotiation of Mexican bonds is a strange affair. The more we study it, the less can we understand how Mr. Fould managed such an important operation. In explaining this episode to the house, Mr. Berryer has rendered a signal service to the public. It is a memorable page for the hard history of the Mexican expedition, for documents about it are scarce, and we have to hunt hard to find any.

Mr. Berryer had the Fould-Pinard contract published. It was well; but we fear he will not be so lucky with the diplomatic documents. Mr. Rouher declared he could furnish none to the house at present, and he added: "In the serious predicament where we find the sovereign of Mexico, it would not be proper to publish documents showing coolness, conflicts and discussions, now of no importance to either government."

Mr. Rouher also said: "The government has not thought proper to publish the diplomatic correspondence, or any documents that, under present circumstances, can be of no use or benefit to either government, but might compromise ours very seriously."

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We regret this suppression the more, since the last news from Mexico says Maximilian is no longer in danger, and that he will return soon from that sad journey. We are, moreover, astonished that the government that has assumed such great responsibilities in times past should now dread the publication of diplomatic notes that might enlighten the close of this expedition. Mr. Rouher ought to know that those refused documents are of much less interest to Mexico than to us, for they know much that has been concealed from us, and that those documents would have revealed. Does Mr. Rouher suppose, under present circumstances, the instructions given to Marshal Bazaine, or to his agents, would be of no interest to us? If he does, he is very much mistaken. The Mexican expedition is more interesting to France now than it ever was, and the manner in which it has been carried on and concluded is of the greatest significance in public opinion.

We know how the Italian, Roman, and German questions have been managed; why should we not know all about the Mexican question? We cannot imagine why Mr. Rouher deems its details of no importance to France, when nothing could better enlighten us on an expedition against which foreseeing public opinion had pronounced, and which it would have prevented if its voice could have been heard, or the free press had served it better. The opposition so bitterly complained of finds in these late revelations, scantily obtained, the proof of the correctness of its views; the genuineness of its patriotism, free from all party spirit.

Mr. Berryer says with truth: "In reflecting upon the disastrous consequences of that expedition, and on the victims it made, I cannot forget that it was chimerical, and that I opposed it from the first, declaring that it would end in disaster; and General Prim said so at Vichy, the very man who lately tried to revolutionize Spain, his native land."

On listening to that sad speech everybody said: "If we had heeded Mr. Berryer, we would not have had that deplorable expedition, and the public would not now be called on to furnish the enormous sums it has cost, and to repair the deficit caused by the lamentable Fould-Pinard transaction.

GUSTAVE JANICOT.

No. 4.

[La Gironde. Bordeaux, June 24, 1867.—Translation.]

The interpellations presented by Mr. Berryer, on the subject of the supplementary credits for 1866, contain a foretaste of the debate to which the Mexican question must soon give rise. We set it down at once that if the explanations of the government are to resemble the answer by which Mr. Rouher tried to satisfy Mr. Berryer, a very strong light will not be shed abroad by them. What did Mr. Berryer ask? that the diplomatic documents promised at the beginning of 1866, by a note in the Livre Jaune be at last communicated. Last year, to postpone this publication, the state of our relations with the United States was invoked; this year the eventuality of a conflict with the American Union has been set aside by the return of our expeditionary troops; but another motive for discretion has imposed itself on the willingness of the government; it is under consideration not to aggravate the position of the ex-emperor Maximilian. According to Mr. Rouher, if the diplomatic papers exchanged between Paris and Mexico were to see the light, the unfortunate prince whom we have taken to Mexico, would find himself more seriously committed than at this moment. This appears to us to be difficult enough to admit, but, in fine, the apprehensions of the minister of state spring from a good disposition, and we understand exactly that Mr. Berryer has not pressed the matter too much. What is less easy to comprehend is that at the very hour when Mr. Rouher was preoccupied with

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the destiny of Maximilian, he should have attributed to him the quality of "sovereign of Mexico." It is plain also that Mr. Romero recently wrote that the greatest danger to Maximilian consisted in his title as pretender, and in the fear of the usage he would make of it at a later day should he recover his liberty. If, therefore, the speech of Mr. Rouher should reach Mexico before the fate of the ex-emperor should be decided, it would very probably produce upon men's minds the most dangerous effect. See, the partisans of rigorous measures would not hesitate to say, this man, who is our prisoner, is always regarded by the powers of Europe as in lawful possession of the sovereignty of our country, and we ought promptly to get rid of him if we do not seek to draw upon ourselves fresh invasions. But let us pass on from this detail to another portion of the interrogations put by Mr. Berryer.

It is remembered that by the treaty of Miramar, the emperor Maximilian, besides the annual indemnity of twenty-five millions for the maintenance of the French troops, acknowledged himself indebted to France in a sum of two hundred and seventy millions for the first costs of the expedition. At the close of 1864 our government was in part reimbursed with Mexican bonds representing, at the rate of sixty francs, a capital of fifty-four millions, on which 40,100,000 francs were appropriated to the budget of current expenses, and 13,900,000 francs to the budget of 1865. In announcing this combination, Mr. Fould said, in his report: "The situation of the treasury admits of awaiting for the negotiation of Mexican bonds of circumstances more favorable, which every day leads us to believe will soon develop themselves." These lines were written on the 9th of January, 1865. A year later Mr. Fould said: "These bonds have been negotiated since the close of the session, and in taking account of arrearages received, the treasury has had to bear, in this negotiation, a loss of 2,542,000 francs. Strictly this should have been divided between the budgets of 1864 and 1865; but the situation of the budget of 1864 not permitting the weakening of these resources, I have charged all the loss on the budget of 1865, which, in consequence, will only receive 11,358,000 francs, in place of 13,000,000 francs." The lines are dated December 20, 1865.

Thus, at that epoch, the minister affirmed that our Mexican portfolio was sold at a simple loss of 2,000,000, and a sum of 11,000,000 seemed acquired for the current expenses. This sum of 11,000,000 corresponded exactly with an excess of receipts for 1865—an excess which was the occasion of the warmest effusions from a devoted press. Never had more brilliant proof been given of the prosperity of our finances. We shall now see what should be thought of all this enthusiasm.

A year passed away. There is a fresh report from M. Fould, (December, 1866,) where we read: "The Mexican bonds, which had been negotiated, and which figured in the budget of 1865 for the sum of 11,358,000 francs, have only been in part collected. Circumstances of great force, invoked by the concessionists, have not allowed them to execute the conditions of the contract." We seize here, and at the earliest moment, the manner in which the mysterious and fantastic operation, called the equilibrium of the budget, is carried out. In his report of December 20, 1865, the minister had affirmed that the Mexican bonds were sold; he had only forgotten to say they were not paid. It is in this manner that the excesses are conquered.

On reading, six months ago, the report of Mr. Fould, the importance of the fact announced by that document became patent to us. We said (Gironde of December 27) all the papers must be placed before the eyes of the members and carefully examined. Then, attempting to divine in anticipation what had passed, "The government (we added) has, without doubt, sold its Mexican bonds to a financial company, which, not having been able to put them off at the exchange before the great fall in price last summer, must have sought for a revision of its contract for purchase. However, we regard it as

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incontestable that the legislative body alone is competent to decide a question of this importance. It is, therefore, indispensable that the government should produce the contract before the chambers, and request it to pass upon it. If the company that bought the bonds has really suffered a loss by compulsion, and one not to be foreseen, the chamber will estimate the return which equitably should be made to it. It is important that it be not forgotten that it is money from contributors, for in case of return, the imposts must bear the burden; but if the company had gone into a speculation, dependent on events; if the fall was with the estimates of ordinary prudence, upon what principle, or by virtue of what law, could there be imposed on the treasury a loss which would not have any connection with it."

These are precisely the claims which we read of, that form the chief part of Mr. Berryer's speech. More fortunate than on the question of diplomatic papers, the eloquent orator has obtained from Mr. Rouher the textual communication of the treaty declared to be annulled by Mr. Fould. The reading of this paper will prove to our readers that when we reproach the administration of the finances with having incompletely informed the legislative body, we were within the bounds of truth. It is, in fact, evident not only that fifty-four million of Mexican bonds were not paid, when Mr. Fould placed them in the line of account of value received, but even that they really were not sold. As Mr. Berryer has announced the intention to return to this subject, in the form of an amendment, we will not dwell on it any longer to-day; neither will we attempt an estimate of the remarks of Glais Boizen, Picard, and St. Paul, on Mexican finances. The debate, although earnest and interesting, is not, to speak truly, gone into in a manner sufficiently direct, and it was agreed to drop the discussion until that on the budget of 1868 shall come up.

ANDRE LAVERTUJON.

No. 5.

[From the Courrier de la Gironde.]

We resume the continuation of our Paris correspondence.

PARIS, *June* 23.

Scarcely a day passes in the legislative assembly without a proposal to suppress the address.

Not one-fourth of the time has been spent in useful legislation. The unfortunate Mexican question was the chief reason for that proposal; yet it will be hard to avoid that question.

Day before yesterday Mr. Berryer asked explanations of the government on the Mexican loans, and operations to which they had given rise.

I have often mentioned a sum of over 40,000,000 in the public treasury, received in payment from the Mexican committee. That sum, in bonds of the last Mexican loan, has never been realized. The French company that made such profits by that loan would have nothing to do with the bonds in possession of the state. This shows that there are certain institutions that issue bonds, but don't keep them or buy them.

Mr. Berryer was surprised that the discount bank, after profiting so much in issuing the Mexican loan, should refuse to take the 42,000,000 in bonds that remained in the treasury. Mr. Rouher handed in the treaty, signed by Mr. Fould and Pinard, director of the Comptoir d'Escompte, and the most important feature in it is that the institution should be released from its engagements, in case of *vis major*—that is, if a revolution overturns Maximilian.

The Comptoir d'Escompte refused to receive, on its own account, the Mexican bonds long before the Mexican revolution, for it saw Maximilian's throne

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tottering. In fact, as there has been no *vis major*, the comptoir is liable to prosecution. But is it reasonable to force a financial institution to execute contracts that would ruin it, and at the precise time when the government had resolved to withdraw its troops?

It was boasted that the Mexican expedition was a glorious affair, the aim of which was to elevate, reorganize, and civilize Mexico; but Mr. Berryer has shown it was got up to make money—was simply an operation of avaricious speculators, whose sole cry was money from the first. It was said our countrymen had suffered from spoliation and must be indemnified, and our exorbitant demands caused England and Spain to quit us at Soledad. It was an unfortunate demand that brought on a disastrous war, without honor or profit to anybody. Not only the French creditors have lost by it, but the government has spent immense sums for nothing.

The consequence was most unfortunate, and amounts to this: To have our creditors paid their entire demands against Mexico, money was wasted, blood spilt, honor tarnished, and poor people ruined by two Mexican loans got up in France.

Mr. Rouher was not as explicit as he might have been; he was troubled by Mr. Berryer's questions. There is a Mr. Jecker, who is a personage of considerable importance in the concern. He was transformed into a Frenchman to take part in the French claims. His little claim was only 50,000,000!

The minister of state was much embarrassed yesterday when Mr. Picard mentioned Mr. Jecker's name, and he confessed that Jecker had caused much trouble to the government. When Mr. Haetjens asked him if the government intended to do anything for the Mexican bondholders, he refused to reply positively, because he feared his words would cause trouble outside of the assembly. Such a reply is unworthy of an imperial government. Too many interests are involved, to speak so lightly of such a serious affair. Mr. Rouher's answer will certainly be misinterpreted. People will think the government intends to do nothing for its victims, whose maledictions will certainly shower upon it. Our members are receiving thousands of petitions from Mexican bondholders. Mr. Haetjens has told you so. This question of reimbursing these men causes as great a sensation as the military bill.

The government asserts, through Mr. Rouher, that it is not responsible for the Mexican loans, but admits that these loans were encouraged and the bonds issued by a committee appointed by the Mexican government, under French patronage. Now, can any one deny that the loans were encouraged by the newspapers, by public agents of France, by its receivers general, by our army that went to Mexico, and by setting Maximilian on the throne of that country?

J. GOURRAIGNE.

No. 6.

WHAT MEXICO HAS COST FRANCE.

[Annexed to Mr. Romero's letter of July 12, 1867.]

The following statement of the outlays and receipts of the French government on account of Mexico has been furnished to the committee of the corps legislatif intrusted with the examination of the budget:

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OUTLAY.

Year.	Departments.			Total.
	War.	Navy.	Treasury.	
	Francs.	*Francs.*	*Francs.*	*Francs.*
1861	.....	3,200,000	.....	3,200,000
1862	27,119,000	35,902,000	379,000	63,400,000
1863	72,012,000	24,606,000	1,001,000	97,619,000
1864	51,732,000	15,667,000	1,675,000	69,074,000
1865	29,342,000	10,583,000	1,480,000	41,405,000
1866	41,792,000	13,798,000	9,567,000	65,147,000
1867	9,993,000	13,117,000	200,000	23,310,000
Total	231,990,000	116,873,000	14,302,000	363,155,000

RECEIPTS IN 1864.

	Francs.
Six months of the annual reimbursement stipulated at Miramar	12,500,000
On account of the Vera Cruz railroad	1,500,000
Proceeds of the sale of 47,625 Mexican imperial bonds	14,287,000
[NOTE.—There still remain in the portfolio of the treasury 5,232 bonds.]	
Arrears on amount of bonds	5,400,000
Total in 1864	33,687,000

RECEIPTS IN 1865.

Annual reimbursement stipulated at Miramar	25,000,000	
Arrears, &c	2,700,000	
		27,700,000

RECEIPTS IN 1867.

Drawn from Mexican customs	588,000
Total receipts	61,975,000

According to this statement the excess of outlay over receipts will amount to 301,190,000 francs, without taking into account the portion of the 31,713,000 francs, extraordinary expenses, which belongs to the Mexican account, estimated at 13,000,000 francs. We must also add the loss of *materiel*, which, up to 1864, amounted to 22,500,000 francs, and the expense of bringing home the expeditionary corps, about 20,000,000 francs. Commenting on these figures, the *Courrier Français* asks, "Where is the capital of French subjects—sunk in that expedition, or confiscated and lost in consequence of its failure?" This is what tables of the budget, however exact they may be, can never tell us, but which are calculated at something over 250,000,000 francs; and what makes us momentarily expect to see broken-down merchants, who were well off and happy until our intervention, and to whom our victories have brought nothing save ruin and the gloomy recollection of their past prosperity.

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Statement of the material work accomplished by the Mexican Legation in Washington from August 15, 1860, to December 31, 1866.

Year.	Correspondence with the Department of State of Mexico.												Correspondence with the Department of State of the United States.								Correspondence with the consulates of Mexico in the United States, Mexican legations abroad, departments of the Mexican government, and other officials of Mexico.				Private letters on official and other subjects.			
	From the legation.						From the State Department of Mexico.						From the legation.				From the State Department of Washington.				From the legation.		To the legation.		From the legation.		To the legation.	
	Number of letters.			Enclosures.	Total.	Pages.	Number of letters.			Enclosures.	Total.	Pages.	Number of letters.			Pages.	Printed pages.	Number of letters.			Pages.	Number of letters and enclosures.	Pages.	Number of letters and enclosures.	Pages.	Number of letters.	Pages.	Number of letters.	Pages.
	Official.	Confidential.	Total.				Official.	Confidential.	Total.				Official.	Enclosures.	Total.			Official.	Enclosures.	Total.									
1860....	93	10	103	49	152	745	66	14	80	10	90	190	7	2	9	13	.....	4	2	6	8	46	59	51	74	201	516	193	507
1861....	392	38	430	212	642	4,053	300	41	341	43	384	875	55	102	157	814	125	42	19	61	72	182	231	193	260	741	1,192	698	1,038
1862....	421	8	429	472	901	4,381	106	10	116	15	131	681	61	192	253	1,834	463	32	8	40	57	160	211	176	248	908	2,524	1,019	2,635
1863....	184	..	184	304	488	1,369	52	..	52	6	58	201	32	83	115	793	164	38	10	48	69	68	119	69	137	489	1,091	421	903
1864....	333	..	333	365	698	2,068	74	..	74	9	83	120	64	151	215	1,181	437	58	55	113	190	221	309	237	343	1,297	2,916	1,309	2,987
1865....	705	..	705	865	1,570	4,497	470	..	470	63	533	1,212	121	320	441	1,975	474	65	17	82	109	331	415	343	471	1,816	3,189	1,774	3,927
1866....	903	..	903	1,289	2,192	6,678	552	..	552	74	626	1,555	136	394	530	2,338	909	115	18	133	216	293	385	310	418	1,978	3,492	1,991	4,681
Total..	3,031	56	3,087	3,556	6,643	23,791	1,620	65	1,685	220	1,905	4,834	476	1,244	1,720	8,948	2,572	354	129	483	721	1,301	1,729	1,379	1,951	7,430	14,920	7,405	16,678

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AGGREGATE STATEMENT OF WORK.

	Letters and enclosures to—	Pages.	Letters and enclosures from—	Pages.
Department of State of Mexico	6,643	23,791	1,905	4,834
Department of State of the United States	1,720	8,948	483	721
Consulates, legations, &c., &c	1,301	1,729	1,379	1,951
Private letters	7,430	14,920	7,405	16,678
Total	17,094	49,388	11,172	24,184

GRAND TOTALS.

	Letters and enclosures.	
	Number.	Pages.
From the legation	17,094	49,388
To the legation	11,172	24,184
	28,266	73,572

This correspondence is contained in 45 bound large volumes, as follows: Correspondence to the State Department of Mexico, 24 volumes; from that department, 5; to the State Department at Washington, 7; from the Washington State Department, 2; to and from different Mexican officials, 3; and private letters received, 4.

The year 1860 can be taken as an average of the ordinary work of the legation in normal times. During all the time embraced in the preceding statement Mr. Romero has been at the head of the Mexican legation. He arrived in Washington on the 24th of December, 1859, as secretary of legation. José M. Mata being then the minister. On the 14th of August, 1860, Mr. Mater left New York for Vera Cruz, accrediting Mr. Romero as chargé d'affaires *ad interim* to the State Department. Mr. Romero presented his letters of credence on the 16th to Mr. William Henry Trescott, Assistant Secretary of State, then Acting Secretary. On the 26th of May, 1862, Mr. Romero presented his credentials to the Department of State as chargé d'affaires near the government of the United States, they being signed by General Doblado, minister of foreign affairs of Mexico, on the 3d of April. On the 23d of April, 1863, Mr. Romero notified Mr. Seward that he had received a leave of absence of which he would avail himself. He took leave of President Lincoln on the 27th; left Washington the next day, and New York on the 16th of May following.

Mr. Romero returned to New York on the 23d of October, 1863, as envoy extraordinary and minister plenipotentiary from Mexico to the United States, and presented his credentials to President Lincoln on the 29th of the same month, having since remained in Washington in that character.

Out of 2,155 days that Mr. Romero has been in the United States (counting five full years, 139 days in 1860 and 190 in 1863) he has only spent out of Washington, and always on official business, 306 days, as follows: in 1860, 6; in 1861, 31; in 1862, 36; in 1863, 29; in 1864, 96; in 1865, 89; and in 1866, 19; having passed in Washington 1,849 days.

While Mr. Romero was acting as chargé d'affaires he only had one attaché to the legation; Mr. Mariano Degollado first, and Mr. J. Escobar y Armendariz afterwards. He was at some intervals alone. Since he returned as full minister he has had two or three assistants, Mr. Mariscal having been during all that time the secretary of legation.

The total number of official interviews which Mr. Romero had with the Secretary of State, the Hon. William H. Seward, from the 2d of September, 1861, to the 31st of December, 1866, is 109, as follows: As chargé d'affaires, (to the 23d of May, 1863,) 63; as minister, (from the 27th of October, 1863,) 46; and 26 with the President of the United States on official business, as follows: with President Buchanan, 3; with President Lincoln, 15; with President Johnson, 8. Total, 135.

During the two years and a half that the republican government of Mexico was in the State of Chihuahua their communication with the republic and the outer world was entirely cut off, and they depended upon their legation at Washington to hear from the central, southern, and eastern parts of Mexico, from the United States and Europe. All the mails for the Mexican government, including newspapers for President Juarez and his cabinet, had to be sent to Mr. Romero, the duties of the legation increasing thereby considerably, as it was necessary to keep an active correspondence with several Mexican generals in the field, and with friends of Mexico in France and other places in Europe and South America. Besides this, and the regular functions of a minister, Mr. Romero has been charged with the purchase of arms and munitions of war, the chartering of steamers to carry to Mexico the war material, the printing of Mexican bonds, and the negotiation of them in the market, and the making of contracts for several other purposes, the circulation of the official paper of the Mexican government, &c., &c.

The appreciation by the United States government of Mr. Romero's correspondence is shown by the fact that Congress has often asked the President, in a special manner, for Mr. Romero's letters, and the President has sent out of 489 letters, which Mr. Romero has addressed to the State Department, 371, in the following manner: of 1861, 27; 1862, 35; 1863, 21; 1864, 54; 1865, 115; 1866, 119. Total number of enclosures sent to Congress and published, 1,204.

The total number of messages on Mexican affairs sent by the President to Congress during the time embraced in the preceding statement is 27, as follows: in 1862, 3; in 1863, 4; in 1864, 1; in 1865, 3; and in 1866, 16.

EULALIO DEGOLLADO, JR.,
Private Secretary.

WASHINGTON, *February* 24, 1867

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Mr. Chase to Mr. F. W. Seward.

[Unofficial.]

UNITED STATES CONSULATE GENERAL,
Tampico, July 17, 1866.

SIR: Believing that any information in relation to the critical state of the affairs of this country will be of some interest to our government at the present moment, I have the honor to acquaint you that, in addition to a force of 700 liberals besieging this place on its west side, about 500 more have just arrived at Tampico; also from the towns in the Huasteca, where they await a chief and re-enforcements to co-operate with those first above mentioned in the capture of Tampico.

By very late letters from Mexico and Vera Cruz I am credibly informed that Bazaine has assured Maximilian that there was no remedy for him but to abdicate, and suggested Santa Anna as the best person in whose favor to abdicate; to which Maximilian replied, on no account; but that in the case of abdicating he should do so in favor of Juarez. Such a course on the part of the retiring emperor would be a severe rebuke to the Emperor of France, but nothing more than an act of justice to the meritorious and patriotic President Juarez. The name of Santa Anna has become so distasteful to the people of this country that his former friends and supporters now deem his return here in any capacity a national calamity.

The news of the intended departure of the empress from this country, and to embark from Vera Cruz on the 13th instant, and the probable departure of the emperor at the same time, has reached here and caused much excitement and ill-feeling against the French, and when an attack is made on this place I am fearful that but little or no mercy will be shown them.

The garrison of Tampico is defended with 180 French soldiers, 50 Americans from General Mejia's late command at Matamoras, and 350 Mexicans. One of the Americans lately told me that he and his companions are stationed at the artillery, and as soon as the liberals attacked the military lines they would spike the guns and, with the 350 Mexicans, join the liberals. It seems that the Americans who have served in the imperial cause have received no pay; hence they await the first opportunity to wreak their vengeance upon the party who has deceived them.

All the funds of the municipality have been expended or squandered, and the members of that body are endeavoring to hypothecate the public edifices to obtain funds for current expenses.

I am, sir, with great respect, your most obedient servant,

FRANKLIN CHASE.

Hon. FREDERICK W. SEWARD,
Assistant Secretary of State, Washington.

[Notice.—Translation.]

LEGATION OF FRANCE TO MEXICO,
Mexico, January 8, 1867.

The Emperor Napoleon has decided that the French residents who would wish to leave Mexico should be returned to their country at the same time as the expeditionary corps. Those persons whose intention it is to avail of this favor are requested to make it known as soon as possible at the office of the legation, Angel street, No. 7.

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Mr. Chase to Mr. Seward.

No. 54.] UNITED STATES CONSULATE GENERAL,
Tampico, January 17, 1867.

SIR: I have the honor to report that on the 17th instant the notorious Colonel Canales, late in command of Matamoras, arrived in this city with a few adherents to the cause of Ortega, and that an attempt has been made through his suggestion to put this port under a contribution of three hundred and twenty thousand dollars, to be paid by semi-monthly instalments of forty thousand dollars.

For the object of raising the above-mentioned sum the merchants have been summoned before the principal commandant, and ordered to take immediate measures to comply with the terms of payment as aforesaid, but they have shown the impossibility of raising that enormous sum, while the previous forced loans levied upon them are not paid.

The question is still pending, and it is impossible to form a correct opinion as to the final result.

An officer who belongs to the staff of Canales assures me that Ortega is now between this port and San Luis Potosi, and if funds can be raised in this place a formal "pronunciamiento" will be made here in favor of Ortega as President of the republic.

Unless some of our ships of war touch here, it will be a long time before I shall have another opportunity for the transmission of letters to the United States, but I will avail of every means to report to you as early as possible the result of this unwelcome party.

I have the honor to be, sir, with great esteem and respect, your most obedient servant,

FRANKLIN CHASE.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

No. 3.

Mr. Murphy to the minister of Mexico in France.

[Translation.]

DEPATMENT OF FOREIGN AFFAIRS AND THE MARINE—CIVIL SECTION, NO. 21.

Remonstrance against the French authorities on account of incidents that occurred between the 15th instant and this date.

MEXICO, *January* 29, 1867.

SIR: The annexed documents will give you the correspondence between his majesty's government and the representatives of his Majesty the Emperor of the French at this court, on account of the following occurrences:

On the night of the 15th instant Mr. Marquez, general-in-chief of the second army corps, had the brothers Pedro, and Eduardo Garay arrested, on good suspicions of being rebel agents.

On the 16th General Ugarte, chief of the police, received a note (No. 1) from the French General A. de Maussion, commander of the subdivision of Mexico, summoning him to appear at his house at 3 o'clock that evening. Mr. Ugarte went, was arrested and informed that he would not be released till Pedro Garay was set at liberty. Mr. Ugarte was told that Pedro Garay had a safe-conduct

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from Marshal Bazaine, and therefore he could not be, and ought not to have been, arrested. As chief of police, Ugarte was responsible for all arrests, and guilty of this one. This is learned from a letter, (No. 2,) sent on the 16th by Ugalde, to the department of government, from the house of the French subdivision commander, where he was detained. The minister immediately addressed a note (No. 3) to Marshal Bazaine, denouncing the act as outrageous, as Garay was not arrested by the police; and even if he had been, the French had no right to interfere in his liberation. If the commander presumed he had that right, he should have applied to the government of his majesty, that directs the police, and has sole jurisdiction in its cases. While this took place at the department of government, General Marquez sent (No. 4) to the minister of war the copy (No. 5) of a letter from General Maussion, ordering the immediate release of Pedro Garay, returning the safe-conduct that had been taken from him. Mr. Marquez enclosed a copy of his reply (No. 6,) and one to General Maussion, informing him that Pedro Garay had showed no safe-conduct from Marshal Bazaine, at the time he was arrested, nor made any mention of having one. The minister of war replied (No. 8) that Pedro Garay and his brother ought to be tried by court-martial. At the same time he addressed a confidential note (No. 9) to Marshal Bazaine if he had actually given Pedro Garay the safe-conduct mentioned, and told him how dangerous it was to give such documents to enemies of the government, allowing them to come and go when and where they pleased, to carry instructions from the enemy to their agents, and thus foment treason. The marshal made no reply to that note.

On the 16th General Marquez wrote again to the War Department, (Nos. 10 and 11,) enclosing a note from General Maussion, telling of his order for the arrest of General Ugarte, and saying he would be detained till Pedro Garay was set at liberty. The minister of war sent it to Marshal Bazaine, (No. 12,) requesting him to order the release of the chief of police, with the apology due the cordial relations of France, and in accordance with justice. Next day the minister of war called to see Marshal Bazaine, and General Ugarte was released, and Pedro Garay was delivered to the French authorities, to be tried by a Mexican court-martial, with an apology from the marshal to the Mexican government, written the 19th, (No. 13,) for Ugarte's imprisonment. Thus that unpleasant affair was satisfactorily settled.

But in the mean time, on the 17th, another incident took place. Marshal Bazaine sent a note (No. 14) to the minister of government, complaining that the Patria (No. 15) of that morning had published an insulting article to the French military authorities, and for his own dignity and the interest of his army, as well as by right, he had ordered the editor of the paper and the writer of the article to be imprisoned and tried by court-martial, and the Patria to be suppressed. His excellency was told that José Tynacia Anievas was the writer of the article, (but the marshal was misinformed,) and he was arrested, with the editor, and they were both imprisoned, when the order was to arrest only one or the other of them. The minister of government, in his reply on the 18th, (No. 16,) told the marshal just what I said to Mr. Dano, the envoy extraordinary and minister plenipotentiary of France at this court, on the same day, (No. 17.) The minister sent my note to the marshal, as you will see from his reply, (No. 18,) and the marshal replied to Mr. Marin on the 22d, (No. 19,) affirming his right to detain the editors of the Patria, and to suppress that paper. However, the editor of the Patria and Mr. Anievas were released on the 18th, but the paper did not appear.

As a consequence of this, the president of the ministerial council addressed an invitation to Marshal Bazaine, General Castelnau, and Mr. Dano, minister plenipotentiary of France, to hold a conference upon the best manner of settling the dispute in question in a friendly manner, in relation to the suppression of the Patria, and other important points, for the purpose of giving them a solu-

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tion conformably to the harmony and good relations that happily exist between both countries. Generals Bazaine and Castelnau refused to attend the conference, and Mr. Dano was alone; and when the points of discussion between his majesty's government and the French authorities were read, he repeated what he had said on the 21st in reply to my note of the 18th, that he had nothing to do with questions between his majesty's government and the French staff. The conference, therefore, was vain, and when the result was reported the next day, the 23d, to his majesty, it was resolved in ministerial council, presided over by his majesty, that the President himself should address a note (No. 20) to Bazaine, Castelnau, and Dano, in the terms of the annexed copy of the note, and in Marshal Bazaine's reply, (No. 21.)

This is the account that your excellency will find confirmed by the subjoined documents of all that has occurred since the 16th instant to this date; and, indeed, it is no easy task to decide which is most glaring in Mr. Bazaine's note, the irregularity and illegality of the acts, or the arrogance and total want of consideration towards his majesty's government. The government of his majesty cannot accept the theory that the general-in-chief of the French army, now on Mexican territory, as an ally and friend of the empire, may shelter and protect its enemies, and not permit it to arrest conspirators, without running the risk of having the captors of the conspirators arrested in their turn by Marshal Bazaine's officers. Neither will the government of his majesty allow Marshal Bazaine the right to arrest the editors of a paper and suppress the sheet itself, as such proceedings are insulting to the sovereignty of the country. It likewise protests against the language employed by Marshal Bazaine in his communications with the government of his majesty; nor will it acknowledge a state of war between France and the empire, which the marshal adduces as an excuse for his proceedings. The French army came to Mexico to demand satisfaction for insults offered to France by the government of Juarez, and declared if the Mexican nation wished to change its institutions and its form of government, the French forces would lend their assistance. And the nation did, in the most effective and unequivocal manner, express its wishes for a monarchy and in favor of the august prince who now sits upon the throne; and from that time the empire has regarded the French army residing in its midst as an army of allies and friends. Nothing has occurred to alter that condition of things, even though the government of his Majesty the Emperor of the French have adopted resolutions for withdrawing its forces from this territory.

In accordance with his majesty's order, your excellency will inform the government of his Majesty the Emperor of the French, of the just complaints of the Mexican government against the French military authorities in this country, and at the same time express the hope that due satisfaction will be offered to his majesty's government for the imprisonment of the editors of the Patria, and the suppression of that paper, as well as an indemnity to its editors for loss and damages resulting from the suppression of the paper.

Your excellency will read this note and the accompanying documents to the minister or foreign affairs, and leave him copies of them if he requests it.

God grant you many years!

Acting Minister of Foreign Affairs and Marine,
MURPHY.

His Excellency the MINISTER OF MEXICO IN FRANCE.

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No. 1.

EXPEDITIONARY CORPS OF MEXICO—TERRITORIAL SUBDIVISION OF MEXICO.

Note.

MEXICO, *January* 16, 1867.

The general commanding the subdivision begs General Ugarte, chief of police, to present himself in his cabinet to-day, at three o'clock in the afternoon.

The General Commanding the Subdivision of Mexico,
A. DE MAUSSION.

Mr. UGARTE, *Mexican Chief of Police.*

A true copy. Mexico, January 18, 1867.
The Sub-secretary of Government,
ANTONIO MA. VISCAINO.

A true copy. Mexico, January 29, 1867.
Director of the Civil Department,
FELIX GALINDO.

No. 2.

MEXICO, *January* 16, 1867.

TO THE MINISTER OF GOVERNMENT: I have just been summoned by the general whose name is appended to the enclosed letter, to inform him who arrested Pedro Garay and took his papers. As I knew nothing about the arrest till this moment, I told him I did not know. I am told that Garay has a safe-conduct from General Bazaine, and therefore should not have been arrested. I have been shown a despatch from Mr. Marquez, saying that Garay presented no document to the chief who arrested him. I was arrested in a lower room of the commandancia, and will be detained till Pedro Garay is set at liberty, because the general of the subdivision says, as I am chief of police, I am responsible for all arrests.

I inform you of this that you may act as you think best; assuring you that before I spoke to the French general, I did not know of the arrest, and up to this moment I do not know by whom it was made.

Director General of the Police,
JOSÉ DE UGARTE.

Sub-secretary of Government,
ANTONIO MA. VISCAINO.

A true copy. Mexico, January 29, 1867.
Director of the Civil Department,
FELIX GALINDO.

No. 3.

MEXICO, *January* 16, 1867.

SEÑOR MARISCAL: The director general of police, Don José Ugarte, was summoned to-day by a note from General de Maussion, commander of the division of Mexico, to appear in his office at three o'clock in the afternoon. The consequence of the interview was Mr. Ugarte's arrest, under the pretext that Pedro Garay had been arrested by his orders, and he was told that he would not be released till Mr. Garay was set at liberty. I must call your particular attention to the fact that Garay was not arrested by the police, and even if he had

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been, the French forces have no right to interfere for his release. If the commander of the subdivision of Mexico thinks he ought to meddle in the business, he ought to have applied to his majesty's government by right, for that rules the Mexican police, and laid in his complaints, so that they might have been legally considered and properly disposed of according to law.

I hope you will examine the facts I have stated and order Mr. Ugarte's immediate release, so that he may be tried by the French authorities.

I have the honor to be, &c., &c.,

The Minister of Government,
TEOFILO MARIN.

The MARSHAL,
Commander in-chief of the Expeditionary Army.

A true copy. Mexico, January 18, 1867.

The Sub-secretary of the Government,
ANTONIO MA. VISCAINO.

A true copy. Mexico, January 29, 1867.

The Director of the Civil Department,
FELIX GALINDO.

No. 4.

SECOND ARMY CORPS, GENERAL-IN-CHIEF, NO. 424.

MEXICO, *January* 16, 1867.

I send you the original of a communication I have just received, together with a copy of the reply I made, to have your decision in the case.

General-in-Chief of the Second Army Corps,
L. MARQUEZ.

The SUB-SECRETARY OF THE WAR DEPARTMENT.

A true copy. Mexico, January 29, 1867.

The Director of the Civil Department,
FELIX GALINDO.

No. 5.

EXPEDITIONARY CORPS OF MEXICO, TERRITORIAL SUBDIVISION OF MEXICO, NO. 223.

MEXICO, *January* 16, 1867.

GENERAL: Mr. Pedro Garay, a Mexican subject, was arrested about 9 o'clock yesterday evening by the Mexican police. His papers were taken from him and he was locked up. Mr. Peter Garay was provided with a safe-conduct from Marshal Bazaine, and I cannot conceive why it has not protected him from violence. I beg you will give orders to have Mr. Peter Garay released immediately, and safe-conduct he had from the marshal restored to him.

Please accept, general, the assurance of my distinguished sentiments.

General Commanding the Subdivision of Mexico,
DE MAUSSION.

General MARQUEZ, *Mexico.*

A true copy:

A. PIQUERO, *Secretary.*

A true copy. Mexico, January 29, 1867.

The Director of the Civil Department,
FELIX GALINDO.

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No. 6.

SECOND ARMY CORPS—GENERAL-IN-CHIEF, NO. 424.

JANUARY 16, 1867.

GENERAL: In reply to your note of to-day, concerning Don Pedro Garay, I must inform you that I can do nothing in the affair without instructions from my government, that has knowledge of your note. Please accept, general, the assurances of my most distinguished sentiments.

General-in-Chief of the Second Army Corps,
L. MARQUEZ.

General DE MAUSSION,
Commander of the Mexican Subdivision.

A true copy:

AGOSTIN PIQUERO, *Secretary.*

A true copy. Mexico, January, 29, 1867,
The Director of the Civil Department,
FELIX GALINDO.

No. 7.

SECOND ARMY CORPS—GENERAL-IN-CHIEF, NO. 437.

MEXICO, *January* 16, 1867.

At this moment (two o'clock in the afternoon) I write to General Maussion as follows:

GENERAL: After writing to you just now, I learn from the chief who arrested Pedro Garay last night, that he neither presented any safe-conduct from Marshal Bazaine, did not say he had any, nor made any mention of having had any, so that nothing was known about it. I send this for your information.

Accept, &c.

General-in-Chief of the Second Army Corps,
L. MARQUEZ.

The SUB-SECRETARY OF WAR.

A true copy. Mexico, January 29, 1867,
Director of the Civil Department,
FELIX GALINDO.

No 8.

DEPARTMENT OF WAR, FIRST DIVISION,
Mexico, January 16, 1867.

EXCELLENT SIR: I have received your two communications of to-day in relation to General de Maussion's request that Pedro Garay be set at liberty, by virtue of a safe-conduct he says he holds from Marshal Bazaine, though we did not find it upon him when arrested, nor did he mention having it at that time. I also received a copy of your reply. In answer, I have the honor to say, I now write to Marshal Bazaine for explanations, informing him how improper it is for enemies of the government to be protected by such respectable persons in their conspiracies, even at the seat of government, bringing and

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carrying letters and instructions between the chief conspirators and armed forces without. In consequence, and until something is determined upon, the two Garays remain in the power of the permanent council of war.

I renew to you, &c., &c.

F. MURPHY.

His Excellency GENERAL-IN-CHIEF
of the Second Army Corps.

A true copy. Mexico, January 29, 1867.

Director of the Civil Department,
FELIX GALINDO.

No. 9.

[Confidential.]

WAR DEPARTMENT, FIRST DIVISION,
Mexico, January 16, 1867.

MOST EXCELLENT SIR: General Marquez, chief of the second army corps, has consigned Peter and Edward Garay to the permanent council of war, as agents of Juarez, as shown by papers found upon them, and given notice of it to this department, for the delivery of certain orders that were immediately executed. The general also sent me a note from General de Maussion to him, requesting him to set Pedro Garay at liberty immediately, and expressing his surprise that a safe-conduct from you did not protect him from outrage. It is worthy of note that General Marquez informed this department that Pedro Garay, when apprehended, presented no safe-conduct from you, did not say that he had any, and made no mention whatever of ever having had one, which is a very singular circumstance, when it was his only protection, to a certain extent. I have not ventured to decide such a delicate case as this is, alone, but will submit it to the council of ministers, hoping you will tell me if you did give him a safe-conduct. It is my duty to inform you, with that candor and loyalty I claim, how wrong it is for a marshal of France and commander-in-chief, who has been a friend of the empire and has assisted the emperor, to permit notorious enemies of the government to seek protection under safe-conducts, to come into and go from towns subject to his majesty's rule, using the safe-conduct to enable him to bring and carry documents and instructions to its secret agents; for it seems easy to deceive you with pretexts of exchanges, in order to get this protection, which was used for their wicked purposes, even to our knowledge. For my part, I would deem it a dereliction of honor and duty to do such an act at such a serious time; and I appeal to you to say if I am not discharging the duties intrusted to me by my emperor; to act otherwise would be to betray the confidence that has been placed in me, and I would become contemptible. I will always act correctly, and I am sure I will deserve approbation. I hope, marshal, you will give me your opinion confidentially, and in the mean time I repeat the assurances of my high and distinguished consideration.

F. MURPHY.

His Excellency the MARSHAL,
Commander-in-Chief of the Expeditionary Corps.

A true copy. Mexico, January 29, 1867.

Director of the Civil Department.
FELIX GALINDO.

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No. 10.

SECOND ARMY CORPS, GENERAL-IN-CHIEF.

MEXICO, *January* 16, 1867.

I enclose you the original of the note I have just received, for your information. I protest to you the assurances of my esteem.

General-in-Chief of the Second Army Corps,
L. MARQUEZ.

The SUB-SECRETARY, *Acting Minister of War.*

A true copy. Mexico, January 29, 1867.

Director of the Civil Department,
FELIX GALINDO.

No. 11.

EXPEDITIONARY CORPS OF MEXICO—TERRITORIAL SUBDIVISION OF MEXICO, NO. 233.

MEXICO, *January* 16, 1867.

GENERAL: I have the honor to inform you that I have secured the person of the director general of the Mexican police, the only one who is responsible, in my opinion, for the arrests that have been made in Mexico. General Ugarte will be detained till Pedro Garay is set at liberty, and the papers that were taken from him given back to him.

Accept the assurance of my distinguished sentiments.

General Commanding Subdivision of Mexico,
GENERAL DE MAUSSION, *manu propria.*

General MARQUEZ, *Mexico.*

A certified copy:

A. PIQUERO, *Secretary.*

A true copy. Mexico, January 29, 1867.

Director of the Civil Department,
FELIX GALINDO.

No. 12.

WAR DEPARTMENT,
Mexico, January 16, 1867.

MARSHAL: I have the honor to remit to your excellency a copy of the note addressed to-day to his excellency the general-in-chief of the second army corps by General de Maussion, commander of the subdivision of Mexico. From its contents you will learn the outrage committed upon the person of the director general of the police in the affair relating to the imprisonment of Pedro Garay. I beg your excellency to inform me, in reply to this, whether you approve or disapprove of such irregular proceedings, so that your answer may serve to govern me. Trusting in your justice, I hope you will condemn the translimitation of power exercised by General Maussion invading attributions that are absolutely foreign to him; and I beg you will order the director of police to be set

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at liberty, with the satisfaction that the good, right, and cordial relations with France require.

I repeat to your excellency the assurance of my high and respectful consideration.

Sub-Secretary of War,
F. MURPHY.

His Excellency the MARSHAL,
Commander-in-Chief of the Expeditionary Corps.

A certified copy. Mexico, January 29, 1867.
Director of the Civil Department,
FELIX GALINDO.

No. 13.

EXPEDITIONARY CORPS OF MEXICO, OFFICE OF THE MARSHAL, COMMANDER-IN-CHIEF.

MEXICO, *January* 19, 1867.

In reply to your letter of the 16th of this month, in relation to the detention of General Ugarte, director of the Mexican police, in the garrison of this place, by order of General Maussion, I have the honor to inform you that I did not give instructions in that sense. General de Maussion, as military commander of the territory, had been charged to reclaim Mr. Pedro Garay, who had been authorized, under the safeguard of the French flag in 1863 or 1864, by General Neigre, at the time of my expedition to Guadalajara, to reside in Mexico, on the necessary condition that he would not engage in politics. A safe-conduct has never been given by me, or by my orders, without the exaction of such a promise. As I have had the honor to inform you, if Mr. Peter Garay has broken his promise, and he is found guilty by investigation on the part of the Mexican government, I am disposed to act in concert with the French minister, and resort to measures authorized by international law.

Mr. Peter Garay not having been given up to General Maussion, that officer took upon himself the responsibility to have the police director arrested, and afterwards informed me of it. He certainly exceeded his powers in that act.

Accept, Mr. Under Secretary of State, the assurance of my most distinguished consideration.

MARSHAL OF FRANCE.

By his order:

Colonel on Staff and Office Chief,
NAPOLEON BOYER.

Mr. MURPHY, *Under Secretary of State for the War Department.*

An authentic copy. Mexico, January 29, 1867.
Director of the Civil Department,
FELIX GALINDO.

No. 14.

EXPEDITIONARY CORPS OF MEXICO, OFFICE OF THE MARSHAL, COMMANDER-IN-CHIEF.

MEXICO, *January* 17, 1867.

MONSIEUR LE MINISTRE: The newspaper La Patria published an article this morning highly insulting to the French military authorities. The care of my own dignity, and my duty to insure the interests of my army, impose upon

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me the obligation to curb every hostile tendency, either in writing or conversation, calculated to excite popular passion or hate for the French name. In virtue of that obligation which gives me the right, and relying, moreover, upon the decree in relation to the state of the war, I have given the order to have the responsible editor of the newspaper entitled La Patria put in prison, or the writer of the article in question incarcerated, if he can be found out. The council of war will be called upon to take cognizance of the affair. I also inform the minister of government that, from this day, supported by the same obligations and the same right, the newspaper called La Patria is hereby suppressed. The armed force will attend to the execution of this last disposition.

Accept, Mr. Minister, the assurance of my most distinguished consideration.

MARSHAL OF FRANCE.

By his order:

Colonel on Staff and Office Chief,
NAPOLEON BOYER.

MINISTER OF GOVERNMENT *in Mexico.*

A true copy. Mexico, January 29, 1867.

Director of the Civil Department,
FELIX GALINDO.

No. 15.

[From the Patria of the 17th of January, 1867, city of Mexico.]

ARREST.

A certain Don Pedro Garay was arrested the day before yesterday by order of General Marquez. Packages of correspondence with the enemies of the imperial government were found upon his person at the time of his capture. The prisoner and documents were sent to the court-martial, and the Emperor has been informed of it. Yesterday Mr. de Maussion, commander of the French garrison, sent for General José Ugarte, director general of police; and Mr. Ugarte, presenting himself through courtesy to the French commander, Mr. de Maussion, ordered him to liberate Don Pedro Garay immediately, because he had a safe-conduct from Marshal Bazaine, and was not liable to arrest. Mr. Ugarte said, as he had not ordered the arrest of Garay, he could not order his release. As Commander de Maussion insisted upon his singular demand, to which Mr. Ugarte properly refused to comply, the former ordered the chief of police to be confined in the French garrison till Garay should be set at liberty. Mr. Ugarte was actually arrested by the French authorities, that have no right to treat the Mexican authorities in that manner.

The minister of government denounced this strange and irregular proceeding of the French commander to Marshal Bazaine, and asked that Mr. Ugarte be released. We have not yet learned the marshal's reply. Our readers will wonder at this case. Why does the French authorities take such an interest in Pedro Garay, the notorious foe to the empire? How did Pedro Garay get a safe-conduct from Mr. Bazaine? Was it intended to give him a chance to concert with the enemy of the empire? Does a safe-conduct give power to conspire with impunity against the government of a nation? Because Garay has a safe-conduct, must he be left unpunished for corresponding with the enemies of the government? Is it feared that certain papers may be found among those documents?

We respect the position of Mr. Garay, who is now in the hands of justice. But we ask the French authorities to order the immediate release of Mr. Ugarte, who, as a Mexican, a general, and an officer of the empire, should not be treated in this manner, to the great condemnation of public opinion.

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No. 16.

DEPARTMENT OF GOVERNMENT,
Mexico, January 18, 1867.

SEÑOR MARISCAL: I received your yesterday's communication this morning, informing me that your duty and respect to your dignity, as well as the good of the army, require you to suppress every act or speech tending to excite hatred of the French name, or to excite popular passion; and this is done also in accordance with the decree on the state of the war. You ordered the imprisonment of the responsible editor of the Patria, or of the writer of the offensive article, that appeared yesterday against the French authorities; the men to be judged by a council of war, and the newspaper to be suppressed by armed force The government of his majesty, regarding the French army as friends temporarily in the country since their determination to quit, and there being no war between France and Mexico, the chiefs have power over their subordinates, and have no right to correct errors or punish offences committed by Mexicans, who are only amenable to their natural judges and subject to the laws of the empire. If the commandant of the French military subdivision in Mexico, to whom the Patria alludes, thinks himself insulted by the article of yesterday, he can prosecute the author of the article before the proper tribunals, under the laws of the press in the empire. If civil justice is denied him, he can then have recourse to diplomatic intervention, or may appeal to the marshal, that the offence offered the French army may be satisfied; but this must be done according to Mexican law and in Mexican tribunals. The state of war to which the decree you quote refers, is that between rebels and the imperial government, and the expeditionary army and those same malcontents, in case they remain hostile; and martial proceedings only can be instituted against them; but subjects obedient to the empire, which is not at war with France, are not amenable to the laws and tribunals of that friendly nation.

From these considerations the government of his majesty will not consent to the trial of the proprietor and editor of the Patria by a court-martial; but hope you will order the prisoners to be given up to the Mexican tribunals, in accordance with the principles of public right and international law, to be tried for violation of the imperial laws concerning the public press. Neither can the government recognize your power to suppress the publication of a newspaper in Mexico, as that is an imperial prerogative, and therefore he is compelled to protest against the employment of armed force.

In thus making known his majesty's reply to the marshal's note of yesterday, I assure you of my most distinguished consideration,

THE MINISTER OF GOVERNMENT.

The MARSHAL OF FRANCE,
Commander of the Expeditionary Corps.

By his order:

The Under-secretary of Government,
ANTONIO VISCAINO.

An authentic copy. Mexico, January 29, 1867.

The Director of the Civil Department,
FELIX GALINDO.

No. 17.

POLITICAL AND COMMERCIAL SECTION.

MEXICO, *January* 18, 1867.

The undersigned, acting minister of foreign affairs, has the honor to address Mr. Dano, envoy extraordinary and minister plenipotentiary of his Majesty the

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Emperor of the French, to inform him that he learns through the minister of government of the imprisonment, by order of Marshal Bazaine, of the responsible editor of the Patria, and of Mr. Ignacio Anievas, for an article published yesterday in that paper, and of its suppression, by reason of "respect to his dignity and the interests of the army, as well as his duty and right, given him by the decree relating to the state of war." The above facts have caused great surprise to the government of his majesty, and they are considered outrages to the sovereignty and independence of Mexico.

If Mr. Bazaine has such regard for his dignity and the interests of his army as to resort to these measures, you will permit me to say that these very acts of his are more calculated than anything else, to draw odium upon the French name, and that even those hostile to the imperial government would consider them disreputable.

The undersigned knows nothing about the decree on the state of the war, mentioned by the marshal as an excuse for his proceedings. He is not conscious that war exists between France and Mexico, the government only being at enmity with the rebels against the empire. It is the duty of the undersigned to call the French minister's attention to the attempt to subject Mexican citizens to the judgment of a foreign tribunal, such as a French court-martial, when they are only amenable to the civil courts for violation of the press. His majesty's government therefore hopes that the editor and Mr. Anievas will be immediately delivered to the Mexican civil authorities, and the republication of the paper be permitted; and if there is any complaint against them, it be brought in the proper courts.

I embrace the occasion to renew the assurances, &c., &c.,

Acting Minister of Foreign Affairs,
MURPHY.

His Excellency Mr. DANO, *Envoy Extraordinary and Minister Plenipotentiary of France.*

A true copy. Mexico, January 29, 1867.

The Director of the Civil Department,
FELIX GALINDO.

No. 18.

LEGATION OF FRANCE IN MEXICO,
Mexico, January 21, 1867.

MR. MINISTER: I have received your communication regarding the suppression of the Patria, and the imprisonment of the proprietors and one of the editors of that paper.

I had nothing to do with the affair, and cannot interfere in any case between the French authorities and the imperial government in Mexico. I send a copy of your communication to Marshal Bazaine.

I must add, however, that I am sure the commander-in-chief of the expeditionary corps had good reasons for acting as he did.

I embrace this occasion to renew the assurance of my high regard,

ALPH. DANO,
Envoy Extraordinary and Minister Plenipotentiary of the Emperor of the French.

A true copy. Mexico, January 20, 1867.

Director of the Civil Department,
FELIX GALINDO.

His Excellency THOMAS MURPHY,
Acting Minister of Foreign Affairs.

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No. 19.

EXPEDITIONARY CORPS OF MEXICO—OFFICE OF THE MARSHAL COMMANDER-IN-CHIEF.

MEXICO, *January* 22, 1867.

Mr. MINISTER: I have read your note of the 18th, in which you seem to want to establish, in the name of the Mexican government, the right of protest against the order I have given, first, to imprison the responsible proprietor and one of the editors of the Patria newspaper, and second, to suspend the Patria. I do not see proper to enter into a discussion of my rights; I proclaim them, and force respect for them. To deny the existence of war in Mexico, in the very capital, is puerile. To prove what I say I refer you to Chaleo, Texcoco, Tlanepantla, and even to the suburbs of the city.

When, in April, 1865, I suspended a paper in Mexico, just as I did the Patria on the 18th of this month, I founded my right on the same obligations. What was right then is right now, unless the advisers of the sovereign in 1867 think what was good against the enemy in 1865 is not applicable now, particularly to a paper in its interests.

The code of military justice promulgated by order of his majesty the emperor of Mexico has a letter proclaiming the existence of war. The court of cassation, in Paris, gave a decree allowing the commander of an army in a foreign country to bring any man before a military tribunal who insults the honor or endangers the security of the French army.

I therefore affirm my right, and will force it to be respected.

I have ordered the proprietor and editor of the Patria to be released, because I did not wish to give fresh cause of quarrel among hostile parties just as the army is leaving Mexico. But I continue the suppression of the journal La Patria, as its language is insulting to the French name. The government regulated the language of other papers and should have regulated this.

Receive, Mr. Minister, the assurance, &c.

Marshal of France,
BAZAINE.

The MINISTER OF GOVERNMENT.

A true copy. Mexico, January 20, 1867.

Director of the Civil Department,
FELIX GALINDO.

No. 20.

PRESIDENCY OF THE COUNCIL OF MINISTERS,
January 29, 1867.

SEÑOR MARISCAL: His majesty the emperor, desiring a friendly settlement of several questions, in order to avoid everything that might complicate the present situation, embarrass the free action of the government, or disturb in any manner good intelligence and harmony with the representatives of France, ordered me to invite you, in union with Minister Dano and General Castelnau, to a conference, which was to have taken place yesterday. You and General Castelnau thought proper to excuse yourselves from attending, and Mr. Dano, the only one who was present, said he was not competent to decide the questions proposed, though they were of the greatest importance, and demanded a prompt settlement to avoid the serious inconveniences mentioned; and therefore the government of his majesty, desiring to avoid a written correspondence by means of an oral conference, finds himself obliged to address the present note to you and Mr. Dano

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and General Castelnau, to settle in a clear and precise manner the following points: 1. In a communication of the 7th of November last, the marshal and General Castelnau declared that, as long as the French troops were in Mexico, they would protect the authorities and towns as they had heretofore done, and preserve order within the zones they occupied, but would undertake no distant expeditions. But in the recent attack at Texcoco you did not offer the least assistance, as the general-in-chief of the second division informs us; and the government would like to know what would be the attitude of the French troops in the capital if the city were besieged by the rebels before they had left, or any part of it attacked by the enemy.

2. The government of his majesty wished the French troops to remain in the country till the autumn of 1867; for, in the memorial of the 31st of May last, sent directly by the Emperor Napoleon to the emperor Maximilian, it said that if the combinations that would be proposed to him (that is, by his majesty's diplomatic minister on questions of finance) were accepted by the emperor Maximilian, the terms fixed for the successive departure of the troops would be maintained, and Marshal Bazaine would arrange the evacuation of Mexican territory on conditions most favorable to the maintenance of order and consolidation of the imperial power. Now, as the speedy withdrawal of the French army from the capital seemed to be determined, and his majesty the emperor is firmly decided to remain in the position where he has been placed by the nation, his majesty's government, which has to take care of itself in the future, would like to know the precise day fixed upon for the evacuation of the capital by the French troops, so as to be enabled to make proper provision for the security and defence of the same.

3. For the same reason it wishes the cities and other fortified places to be given up, as well as all munitions of war belonging to them, to provide for the proper defence of the capital.

4. The conference also was intended to have an amicable settlement of the trouble caused by the suppression of the Patria by Marshal Bazaine, and to decide the question of the application of the French military laws to the subjects of a government fixed in its own country, against whose citizens justice can be enforced by their natural judges.

5. The convention was also to consider the irregularity of the fact that a French agent used French military force to take his goods out of an interior custom-house that held them for duty, which act could not be authorized even in execution of the convention of the 30th of July.

6. The government also wished to treat with the French representatives about the funds of the Vera Cruz custom-house, arising from duties paid previous to the 1st of November last, and drafts accepted by the same custom-house before the date mentioned.

The undersigned hopes that the representatives of France will give him an answer upon all these points, so plain and satisfactory that it will once more prove the good harmony he would be so happy to see reign between both nations, and thus avoid all causes of a bad understanding that might disturb the relations now existing between both nations and their sovereigns.

Accept the expression of my most high consideration.

F. LARES,
President of the Council of Ministers.

Marshal BAZAINE, Mr. A. DANO, *Minister Plenipotentiary of France,* and General CASTELNAU.

MEXICO, *January* 29, 1867.

A true copy:

FELIX GALINDO,
Director of the Civil Department.

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No. 21.

EXPEDITIONARY CORPS OF MEXICO—OFFICE OF THE MARSHAL COMMANDER-IN-CHIEF—NO. 190.

MEXICO, *January* 27, 1867.

Mr. MINISTER: I have received your letter of the 29th instant. I ought to confine myself to a simple acknowledgment of its reception, as it treats of questions that have been already decided in writing and by former conferences. You will please find, therefore, the explanations you ask in my replies to you, and in my letters to the various under-secretaries of state to whom I have written.

You seem to accuse the French army of want of activity. Have I not, on the contrary, the right to remonstrate against the arbitrary acts, against violence committed every day for some weeks, and which our presence in Mexico seems to render the French flag an accomplice in?

As your letter, Mr. Minister, shows a sentiment of distrust, constantly based upon calumniating appreciations injurious to our loyalty, I am compelled to say to you that, in future, I will have no direct communication with your department.

Accept, Mr. Minister, the assurance of my high consideration.

BAZAINE, *Marshal of France.*

His Excellency the PRESIDENT OF THE COUNCIL OF MINISTERS, *&c.*

MEXICO, *January* 29, 1867.

A true copy:

FELIX GALINDO,
Director of the Civil Department.

Mr. Otterbourg to Mr. Seward.

No. 9.] CONSULATE OF THE UNITED STATES OF AMERICA,
City of Mexico, February 10, 1867.

SIR: I have to announce the evacuation of this capital on the 5th instant by the French forces under command of Marshal Bazaine in person, which I communicated on the same day by telegraph to our consul at Vera Cruz, authorizing him to report the fact officially to the department. This event was precipitated by an entire rupture of all relations some five days previous between Maximilian and his excellency. The day preceding his departure the marshal published a farewell address, enclosure No. 1, to the inhabitants of Mexico, which may be regarded both as an apology for what had been done as well as for what should have been done under more propitious circumstances.

With the design of observing events, and of being in a position to act as the condition of affairs might require, the French forces encamped at but a short distance from the capital on the day of the evacuation. Had the imperialists employed, as it was reported to be their intention, unnecessarily severe measures to suppress a movement rumored to be initiated by the liberals in the city, the marshal would have interposed his forces; while if the liberals succeeded in mastering the capital, his excellency would be near by, and prepared to enter into negotiations with the successful party.

General Marquez, the chief of the second military division, took immediate command of the city, of which in an address and proclamation, enclosures Nos. 2 and 3, he advised the population on the morning of the 6th. Inasmuch as by this proclamation General Marquez places the capital under martial law, and assumes irresponsible powers of judgment and exercise of will, I determined to

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address him a note, of which enclosure No. 4 is a copy. His reply, enclosure No. 5, refers my communication to the minister of foreign affairs for a decision of the points involved in the inquiries directed to the commander-in-chief. The proclamation has awakened much excitement and disquietude among the representatives of the nations who have recognized the empire, and induced a meeting of the diplomatic corps for a discussion of the measures proper to be taken in order to meet the dangers threatened by a state of affairs so suddenly brought into existence. Acting with entire independence of all other foreign agents, from the relative position of the United States and the authorities here, I have found it necessary to recur to different measures which might secure the interests of American citizens, and the honor of the flag that covers them.

The finance minister, from the unsatisfactory results of the forced loan imposed upon the capitalists, as communicated to the department in a former despatch, has appealed to a general contribution of one per cent. upon property and values of every kind, enclosure No. 6. The decree authorizing this contribution, though unquestionably designed to obtain resources for the maintenance of civil war, gives but little room for direct protest against its provisions. I have, while awaiting the result of the protest from the foreign ministers against the exaction of this new forced loan, made by a skilful mode of imposition, applicable alike to foreigners and natives, desired citizens of the United States, who have sought advice upon the subject at this office, to return on the 11th instant, the day named for the collection of the first instalment, when I could probably give a decisive opinion as to the most effective course to be adopted. Contrary to all expectations Maximilian still remains in the palace, and there exists the same uncertainty as to his continuance or departure as prevailed previous to the retirement of the French army from the capital. Our reports announce the French to have reached San Martin, at twenty leagues from Mexico, on the high road to Puebla, in prosecution of their march towards the port of Vera Cruz.

Official information was last night received of the rumors of Miramon's complete rout at San Jacinto, a point between Zacatecas and Aguas Calientes, with the loss of his entire army, artillery, and military chest. He himself escaped to Queretaro, accompanied by several officers, and was joined at the same city by General Severo Castillo, now in command of Mejia's division, who had fallen back with his forces from Leon on learning the defeat of his chief.

President Juarez is believed to be at San Luis Potosi with the officers of his government.

The imperial General Tabera has suffered a severe disaster while returning from Toluca, whither he had gone with a column of 1,000 men to cover the withdrawal of the garrison into Mexico. The blow was inflicted by General Velez, an officer who a short time ago pronounced in favor of Ortega against Juarez and the empire.

The most accurate information gives the number of foreign soldiers at present in the service of the empire at 1,500 men of all arms. These men, rejecting the offer of a return to Europe extended by the French government through Marshal Bazaine, have remained at their own risk and peril in this country.

Business enterprise and commercial activity, which for months past have been declining, are now completely paralyzed in consequence of the condition of the political situation and the heavy contribution.

I have the honor to be, very respectfully, your obedient servant,

MARCUS OTTERBOURG,

United States Consul, in charge of United States Legation.

Hon. WILLIAM H. SEWARD,

Secretary of State of the United States of America, Washington, D. C.

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[Enclosure No. 1.—Translation.]

EXPEDITIONARY CORPS OF MEXICO.

MEXICANS: Within a few days the French troops will leave Mexico.

During the four years that they have resided in your beautiful capital, they have had none but motives to congratulate themselves upon the sympathetic intercourse which has been established between them and its inhabitants.

It is, therefore, in the name of the French army under his command, as also from the impression of personal sentiments, that the marshal of France, commander-in-chief, takes leave of you.

I address you, therefore, our desires in common for the felicity of the generous Mexican nation.

All our efforts have aspired to establish internal peace. Be assured, and I declare it at the moment of leaving you, that our mission has never had other object, and that it has never entered within the intention of France to impose upon you any form whatever of government contrary to your sentiments.

MARSHAL BAZAINE.

HEADQUARTERS, MEXICO, *February* 3, 1867.

[Enclosure No. 2.—Translation.]

The general in-chief of the 2d army corps to the inhabitants of this capital:

COMPATRIOTS: I have just taken charge of this beautiful city, and as you know me, I believe it to be unnecessary to say anything. You have proof that I know how to sacrifice myself for what is confided to me, and I will perish sooner than permit the slightest disorder. Consequently I have taken all my precautions for your security. I have the armed force necessary, and you for yourselves are about to see in what manner this plaza is garrisoned. I hope there may be no restless character who shall entertain the mad pretence of disturbing the peace, that I may not find myself under the sad necessity of applying the law, to which I am firmly resolved.

LEONARDO MARQUEZ.

HEADQUARTERS, MEXICO, *February* 5, 1867.

[Enclosure No. 3.—Translation.]

LEONARDO MARQUEZ, GENERAL OF DIVISION AND CHIEF OF THE SECOND ARMY CORPS.

Be it known, although there is no motive actually for alarm in the capital these headquarters having the obligation to foresee every eventuality, however remote, in the use of the faculties which the ordinance concedes, has thought proper to decree:

ARTICLE 1. The great bell of the cathedral, which shall be sounded for the space of ten minutes, will give the signal of alarm for the city.

ARTICLE 2 On the sounding of said alarm all inhabitants of the city will retire to their dwellings and remain therein, with closed doors, and not go out again, or appear at the balconies, windows, or upon the *azoteas* (flat roofs) until the alarm shall cease, which will be announced by the ringing for an equal length of time of the large bell of the cathedral.

ARTICLE 3. Every individual, be his rank what it may, who, in any manner, shall infringe the foregoing article, will be punished by the government directly, according to the circumstances of his fault.

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ARTICLE 4. Consequently the armed force, which shall be conveniently posted for the security of the population, will receive orders to imprison the culpable, and to employ force should it be necessary.

ARTICLE 5. Equally, those shall be punished or consigned to the tribunal to which it corresponds, who arm themselves without the knowledge of these headquarters, who discharge or fire arms or cause alarm by means of any detonation, who make any demonstration of hostility, who use subversive expressions, who utter aloud alarming or seditious cries, or who in any manner excite the slightest disorder.

ARTICLE 6. Immediately as any fire-arm is discharged, or any detonation heard, the armed force will present itself at the house where the shot may have proceeded or the detonation been produced; the door will be opened in the ordinary way, or by force, the culpable party will be apprehended, and if he be not found all the inmates of the dwelling will be punished in conformity with article 3 of this edict.

ARTICLE 7. From the moment that it is announced to the city that the alarm has ceased, all the inhabitants are at liberty to open their doors, go out into the streets, and engage in their occupations, with the single circumstance of not committing any disturbance, because, in case of so doing, it will be repressed as herein provided.

Given at headquarters, Mexico, February 5, 1867.

The General-in-chief, L. MARQUEZ.

[Enclosure No. 4.]

CONSULATE OF THE UNITED STATES,
Mexico, February 6, 1867.

The consul of the United States of America finds himself, in consequence of the proclamation of his excellency General Leonardo Marquez, dated yesterday, 5th instant, under the obligation imposed by his position as guardian of the American flag and the interests which it represents under the guarantees of treaties, to make respectfully the following inquiries of the general-in-chief in command of this capital:

Whether the third article of his excellency's proclamation includes legations, consulates, and other foreign agents; whether the person in charge of the United States legation and archives should be expected to open the doors of the house where that property is kept to any party, armed or unarmed, who might demand admittance thereto; and whether, in view of the second article of the proclamation already quoted, American citizens, without any interference in the political questions of Mexico, occupied solely with their daily pursuits, shall have free access to the consulate of the United States.

Upon the reply to these inquiries, which only as a duty the undersigned addresses to his excellency the general-in-chief, depends the answer to the many peaceful citizens of the United States who, under the existing circumstances, have applied at this consulate, soliciting guidance for conduct in which may be involved their dearest interests.

The undersigned has the honor to assure his excellency the general-in-chief of his distinguished consideration.

MARCUS OTTERBOURG,
United States Consul in charge of U. S. Legation.

His Excellency General LEONARDO MARQUEZ,
Commanding Second Corps.

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[Enclosure No. 5.—Translation.]

SECOND ARMY CORPS—GENERAL-IN-CHIEF—NO. 1074.

MEXICO, *February* 6, 1867.

The general-in-chief of the second army corps has the honor to acknowledge to the consul in charge of the legation of the United States the receipt of his note of this date, and to state that as it contains matters to be decided by the minister of foreign affairs, the original has already been referred to that department.

I avail myself of this opportunity to present to the consul in charge of the legation of the United States the assurance of my high consideration.

L. MARQUEZ,
General-in-Chief of the Second Corps of the Army.

Mr. MARCUS OTTERBOURG,
Consul in charge of the Legation of the United States of America.

[From the Diario del Imperio, February 4, 1867.—Translation.]

MINISTRY OF THE TREASURY,
Mexico, January 28, 1867.

SIRE: In the report which I had the honor to present to your majesty upon the resources on which you can rely to cover the public expenses, I made known the necessity of an extraordinary expedient for the formation of a fund wherewith to equalize, as far as practicable, the income and the disbursements, while the laws for contributions are in progress of execution, and produce the result which I expect from them; since for the moment the want is seriously felt of the products of the maritime custom-house of Vera Cruz, which to-day cannot be disposed of. I indicate to your majesty the extraordinary recourse of a forced loan, not because this odious means of providing resources forms a part of my system, but because after having endeavored to contract a small voluntary loan, to be promptly returned under sufficient guarantee, it was brought to my notice in the name of several proprietors, that the exaction of a loan, with the character of a forced loan, would be well received, and would be collected without contradiction. Under this impression I adopted the means, although with repugnance, consigning at once the products of a branch of the treasury to the reimbursement of the contractors of the loan. But if in fact some few of the persons assessed have commenced to pay up the amounts assigned them, the generality resist and compel the government to adopt coercive means in order that its provisions may not prove illusory.

With the energy which the want of resources requires, the exaction of the loan will be able to be carried into effect, and the ministry in my charge would thus notify the executors of the measure, were there not another way of obtaining the end proposed, with more certainty, greater generality in the imposition, and the absence of even the slightest motive of any well-founded ground of complaint. Inasmuch as the loan cannot be extended to a great number of persons, nor be partitioned in strict proportion from the want of exact data, the end proposed can be obtained without their inconvenience by the products of an extraordinary contribution, which, falling upon the mass of contributors, will lessen the weight of the exaction, and its quotas be graduated from precise data already existing. Frequently in Mexico recourse has been had to the imposition of a contribution equivalent to one fixed upon capital invested in real estate, or in business; taxpayers were already habituated to it, and have always received it with less repugnance than the loans; and although the basis is not in conformity with any rentistic system, and never would be, on account of the repetition of the impost, as has been done in former years, at present, when the ordinary contributions

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have diminished considerably, when they were at the highest rate, I resolve to propose to your majesty to decree its imposition for this sole occasion, in preference to the loan, and calculating that even with its imposition the tax-payers will pay on real property less than in the past year.

As to those who pay upon industrial and mercantile establishments, they will be taxed more than the preceding year, because the license duty was extremely low, yet they will contribute extraordinarily less than the proprietors of real estate, in proportion to their respective capitals, in view of the fact that capital employed in mercantile pursuits incurs the risk of being lost or diminished, while that invested in real estate can only be temporarily unproductive, without diminution; and in respect to industrial establishments, they will pay less than the mercantile branches, because, besides the previous considerations, their profits proceed more from industry of man than from the amount of capital invested.

The annexed project of a decree, which I have the honor to submit to the enlightened examination and sovereign approbation of your majesty, unites brevity in the proceedings, which the circumstances demand, with the greatest possible equality in the apportionment, as flowing from the same bases which are actually serving for the collection of the ordinary contributions, and, as is just, contains the provision that the amounts paid to date on account of the loan, by the persons among whom it was disbursed, will be credited to the one per cent. extraordinary.

Should the project meet the high approbation of your majesty, you will deign to sign the decree, or determine what may be your sovereign pleasure.

Sire, the under-secretary of treasury, charged with the ministry,

JOSÉ MARIA CAMPAS.

The EMPEROR.

MAXIMILIAN, EMPEROR OF MEXICO.

In virtue of what our under-secretary of the treasury in charge of the despatch has manifested, and after hearing our council of ministers, we decree:

ARTICLE 1. To meet the estimates of the public administration during the present year, every capital of one thousand dollars and upwards, whether employed or to be employed in any branch of industry, shall pay a contribution of one per cent.

ART. 2. This contribution shall be paid in two equal instalments—the first within the first six days, exclusive of feast days, reaching from the day following the publication of this law at any place, and the second fifteen days after the completion of the first named term, within the six following days.

ART. 3. This contribution is due upon and is to be collected where the property is situated; but in the capital of Mexico and points of the valley, it shall be collected from the tax-payers who reside therein, although they may hold their property in other departments; and the obligation which this loan imposes upon the owners of capital shall in their cases be discharged by their managers, whether under the name of administrators or on account of infirmity, absence, minority, legal interdiction, sequestration, partnership, or usufruct of the owner.

ART. 4. This contribution, which is imposed once for all, shall be exacted in the following manner: That assessed upon rural and urban property shall be collected upon the value at which these have been appraised to the end of December of the last year, just passed, for the payment of the contribution on real estate in the last four months ending with the said December. For capital employed in mercantile pursuits, the collection shall be made by triplicating the quota which every person ought to have paid in one year for a simple contribution, and not double, according to the last qualifications under which the pay-

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ments of the last four months of the year 1866 were made. The branches of business opened the present year will be assessed by analogy with others of equal kind should they not be already classified. An amount equal to one year's payment, according to the existing assessment, shall be collected upon industrial establishments. For mining concerns or others difficult to be classified, the collection shall be made upon the manifestation which the owners or their representatives shall have given in writing within the term fixed in article 2, in the intelligence that if after payment it should result that the truth has been concealed in the manifestation, either by diminishing the amount of capital or making it appear less by any other method, the facts shall be exposed at the collectors' offices, and double the amount, or two per cent., shall be charged to those who have presented false manifestation.

ART. 5. There are no exceptions to the payment of this contribution, not even in favor of those mercantile or industrial companies which by any right whatever may have been excepted in former cases.

ART. 6. Proprietors of rural or urban estates upon which mortgages exist are allowed to deduct from the amount one per cent. of the amount of the total value of his payments without injury to the especial contracts which they may have entered into.

ART. 7. In this capital, the payment of the contribution to which the present law refers shall be made in the general direction of rents, to which effect an especial section is established, charged exclusively with the collection and delivery of the products into the general treasury.

ART. 8. In towns and places beyond the capital, the collection of this impost will be taken in the offices of direct contributions.

ART. 9. The collectors of this contribution and their agents will employ the economico-coactive authority to make effective the collection within the term indicated, and will be assisted by the public authorities in all cases where force is required.

ART. 10. Those who shall have paid any sums of money under the last forced loan imposed by the government, with guarantee of a branch of the public treasury for its return, shall be paid from the funds of the present contribution, crediting them in the amount they have paid or returning them what may appear to their credit, according to what corresponds to each individual.

ART. 11. All those who from any motive soever shall delay or neglect to present their returns during the days named as the first term shall suffer the penalty of paying double the amount of this impost on the qualification which the respective officers shall make and without a right to future reclamation.

ART. 12. Our ministry of the treasury is charged with the execution of this decree.

MAXIMILIAN.

Given in Mexico, February 1, 1867.

By the Emperor:

JOSÉ MARIANO CAMPOS,
Under Secretary of the Treasury in charge of the despatch.

Mr. Seward to Mr. Otterbourg.

DEPARTMENT OF STATE,
Washington, March 6, 1867.

SIR: You have my thanks for your two interesting despatches, No. 9 of the 10th and No. 10 of the 16th of February.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

MARCUS OTTERBOURG, Esq., *&c., &c., &c., Mexico.*

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Mr. Chase to Mr. Seward.

No. 57.] UNITED STATES CONSULATE GENERAL,
Tampico, February 15, 1867.

SIR: I had the honor, in my No. 6, dated 17th January last, to report to you the arrival of Colonel Canales, late commandant at Matamoras, at this port, and of his intention of causing a public pronunciamiento to be made in favor of Ortega, which was fortunately frustrated by the majority of the authorities here, who had become convinced that the government of the United States would sustain Juarez at all hazards, and that their best policy was to continue under his authority.

The recent turn of events in the interior, by the arrest of Ortega and the defeat of Miramon at Zacatecas, serves to convince the inhabitants of this State that they must also yield, for the present, to the rule of Juarez.

In the mean time they are without the means for the support of their garrisons, and they can only subsist their forces from day to day by forced loans from capitalists, or obtain funds by heavy discounts upon the limited revenue derived from importations. Either of the above-mentioned systems only affords a temporary relief and an increase of the national debt.

Under this state of things the authorities here are endeavoring to obtain a loan from the United States by an offer, in the name of Juarez, of the customs of this port in payment of the same.

On the other hand, every Mexican who is not employed in some civil or military service openly declares that there are no hopes for peace or prosperity in this country unless the United States take it in hand and under its protection.

I have the honor to be, sir, with great esteem and respect, your most obedient servant,

FRANKLIN CHASE.

Hon. WILLIAM H. SEWARD,
Secretary of State of the United States, Washington.

Mr. Chase to Mr. Seward.

No. 59.] UNITED STATES CONSULATE GENERAL,
Tampico, February 27, 1867.

SIR: I have the honor to acquaint you that an express arrived here on the 24th instant, bringing dates from San Luis Potosi to the 18th, from which I am informed that the liberal and imperial forces are seeking a battle in that vicinity, which would, doubtless, take place in a few days.

I notice that the liberals here seem much disturbed in consequence of this information, and they now admit that the imperials are not only numerically the strongest party in the field, but that they are the best equipped.

Should the imperials gain the ascendency at San Luis Potosi, they will send a force against this place, and I trust that the commanders of our vessels of war will be instructed to touch here frequently for the protection of American interests. The imperialists are highly incensed against our government, and our countrymen here will be harshly treated by them if they are permitted to hold the ports on this coast.

On the 23d instant a bando was published in this city, by order of General Gomez, imposing a new extraordinary tax of three per centum on capital and real estate, for the avowed purpose of subsisting the troops of this garrison.

I have endeavored to dissuade General Gomez from collecting this tax from

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our countrymen, and I have some hopes that he will finally yield to my appeals.

I have the honor to be, sir, with great esteem and respect, your most obedient servant,

FRANKLIN CHASE.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington.

Mr. Chase to Mr. Seward.

No. 60.] UNITED STATES CONSULATE GENERAL,
Tampico, February 27, 1867.

SIR: Now, at 8 p. m, the mail is just in from San Luis Potosi, bringing the important information of the arrival at that city, on the 21st instant, of President Juarez, where he was received by its inhabitants with the most fervid demonstrations of joy.

The imperial forces, of from six to seven thousand strong, under the command of Miramon and Marquez, were at Queretaro on the 21st instant. It is asserted that Maximilian is also at Queretaro, and that he has assumed the command of the army, but I consider that this assertion requires confirmation.

I have the honor to be, sir, with great esteem and respect, your most obedient servant,

FRANKLIN CHASE.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington.

Mr. Chase to Mr. Hunter.

No. 62.] UNITED STATES CONSULATE GENERAL,
Tampico, March 6, 1867.

SIR: I have the honor to acquaint you that a courier arrived at this consulate at 2.30 a. m. of the 4th instant from the government of Juarez, at San Luis Potosi, with despatches for the authorities of this place, all of which were sent to my address.

By that courier I received a copy of the address of Maximilian to the imperial army, of which he is now at the head, and have the honor to enclose a copy thereof (No. 1) for your information.

The force under the immediate command of Maximilian is reported to be ten thousand strong, distributed under the command of the generals mentioned in the address aforesaid, in front of whom are sixteen thousand liberals under the command of Escobedo and Treviño, and a battle was momently expected to be fought between them. Such was the attitude of affairs on the 1st instant between San Luis Potosi and Queretaro, while the liberals were closely besieging the city of Mexico and Pueblo de los Angeles, with, I presume, but faint hopes of immediate success against those fortified posts.

Under these circumstances I must venture to express the hope that the department will cause the interest and the lives of our countrymen to be protected by frequent visits of our ships of war on this coast, which are now more required than ever.

Should the liberals be defeated, and the imperials obtain possession of this and the port of Matamoras, there will be but little or no mercy shown to the

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inhabitants thereof, unless they are checked by the protecting hand of our government.

I have the honor to be, sir, with the highest respect, your most obedient servant,

FRANKLIN CHASE.

Hon. WILLIAM HUNTER,
Second Assistant Secretary of State, Washington.

[NOTE.—Enclosure No. 1 already published.]

Mr. Chase to Mr. Hunter.

[Unofficial.]

UNITED STATES CONSULATE GENERAL,
Tampico, March 7, 1867.

SIR: My No. 14 of yesterday's date will doubtless convince you that the affairs of this country are becoming very interesting by the active and hostile attitude of the contending parties, and that much depends upon the result of the battle which must inevitably be fought in a short time in the vicinity of San Luis Potosi for the stability of the constitutional government. If the liberals should be victorious, the empire will soon fall; but if the imperialists should gain the battle, we will have nothing to expect but a lengthened guerilla warfare, which will finally complete the ruin of this country.

The instructions of President Juarez are almost invariably disregarded by the governors of States and the military commands of posts, which renders him almost powerless.

By the courier which came to this consulate from President Juarez on the morning of the 4th instant instructions were sent to General Gomez to repair forthwith with his forces to San Luis Potosi, which are not complied with, nor will the same general admit of some new appointments of custom-house officers made by the President.

The plain truth is that the authorities here, with the exception of General Cuesta, are in favor of Ortega, and I am confident that they are only waiting a favorable opportunity to proclaim him President.

By a sailing vessel which sailed hence for New Orleans on the 3d instant I sent a letter to Mr. Campbell, advising him that President Juarez had established his government at San Luis Potosi, and I am confident that the presence of his legation in this section of the country would give an increased support to the republican party, and be the means of keeping it together. It is to the arrival of the Susquehanna with the members of our new legation, and the visit of the Paul Jones in these waters, that the retention of this place, in the name of Juarez, must be attributed.

I am, sir, with great regard, your most obedient servant,

FRANKLIN CHASE.

Hon. WILLIAM HUNTER, *&c., &c., &c.*,
Washington, D. C.

P. S.—In order to convince you that President Juarez cannot rely upon the fidelity of his officers here, he sends his instructions to them under cover to this consulate.

Respectfully,

F. C.

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Mr. Chase to Mr. F. W. Seward.

No. 66.] UNITED STATES CONSULATE GENERAL,
Tampico, March 27, 1867.

SIR: From very recent and reliable information from San Luis Potosi the imperial and republican forces were in hostile array against each other at Queretaro, and several attempts by the latter had been made upon the fortifications of the former without any favorable results.

The campaign lately opened by Maximilian against the liberties of the people of this country has already initiated a war of extermination of life and utter ruin to property, either by confiscation or by over-taxation. This is the system of both parties, and they seem to be striving to outvie each other in the accomplishment of the utter ruin of the country and its inhabitants.

This place is still garrisoned with about fourteen hundred men, under the command of General Ascension Gomez. And although they have received orders from the President to join the other forces at Queretaro, they found excuses for disobeying those orders.

Juarez and his cabinet are still located in San Luis Potosi, and if our legation should be speedily established in this city it would doubtless have a most salutary influence over the minds of the Mexicans throughout the country, and result in incalculable benefits to our countrymen.

I have the honor to be, sir, with the highest respect, your most obedient servant,

FRANKLIN CHASE.

Hon. FREDERICK W. SEWARD,
Assistant Secretary of State, &c., &c.

Mr. F. Chase to Mr. F. W. Seward.

[Unofficial.]

UNITED STATES CONSULATE GENERAL,
Tampico, March 27, 1867.

SIR: I have the honor to inform you that the United States steamer Tacony, Commander F. A. Roe, anchored off the bar of this port late in the evening of the 25th, and yesterday communicated with this consulate. The Tacony left last night for her port of destination, Vera Cruz, where she is doubtless much wanted at the present moment.

Commander Roe informed me that the United States gunboat Yantic, Lieutenant Commander Maxwell, is on her way to Tampico, and will be in in a day or so.

This is very acceptable news to our countrymen and myself, for the simple reason that with such protection we feel perfectly secure.

With the highest respect, I am your very obedient servant,

FRANKLIN CHASE.

Hon. FREDERICK W. SEWARD,
Assistant Secretary of State, Washington.

Mr. F. Chase to Mr. F. W. Seward.

No. 68.] UNITED STATES CONSULATE GENERAL,
Tampico, April 15, 1867.

SIR: I have the honor to inform you that on the 2d instant the United States steamer Tahoma, Commander Ghuardi, arrived in this port from Vera Cruz, and on the 12th the United States steamer Yantic also arrived here from the north.

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The repeated commands of the President to General Gomez, the commander of the garrison, to turn over the command of this place to the Prefect Don Ramon Castello, and to march with the State forces under his command to the scene of action at Queretaro, having been disobeyed, much excitement and alarm was evinced here at the time of the arrival of the Tahoma, and a public pronunciamiento would doubtless been made against Juarez in favor of Ortega had it not been for the apprehension of Gomez and his adherents that the commander of the Tahoma would have aided the friends of Juarez. Thus far Gomez has merely removed the persons appointed to civil posts by Juarez; that is to say, collector and comptroller of customs, postmaster, and prefect.

On the 12th instant Colonel Haro, commanding the forts on the west side of the city, took possession of all the artillery, and stationed his men at Casa Mata in open defiance against the pretensions of Gomez, from whom he demanded immediate submission to the orders of Juarez; but during the night, from some mysterious cause which may prove disastrous to Juarez, Haro abandoned his pretensions and his post of duty and retired, leaving the artillery in full possession of Gomez.

In the mean time I am credibly informed that Gomez has sent expresses for the return of the notorious Canales and his adherents to this place; and if it were not for the presence of our vessels of war I should now feel much concern for the security of life and property.

The mail which arrived here yesterday from San Luis Potosi brings the reliable report of the capture and occupation of the city of Puebla on the 3d instant by the republican forces.

I have the honor to be, sir, most respectfully, your very obedient servant,

FRANKLIN CHASE.

Hon. FREDERICK W. SEWARD,
Assistant Secretary of State, Washington.

Mr. F. Chase to Mr. F. W. Seward.

No. 74.] UNITED STATES CONSULATE GENERAL,
Tampico, May 20, 1867.

SIR: I have the honor to acquaint you that on the morning of the 14th instant a portion of the troops belonging to the garrison of this place revolted against General Gomez, who, although having incurred the displeasure of the President, still retains possession of the said garrison, and the control of the revenue of this port. The disturbance lasted about six hours, when the revolted party were put to flight, some of whom escaped in boats to the United States steamer Yantic, from whence they were sent to the opposite shore, and others rushed into the houses of the foreign consuls, as places of refuge, while about twenty were shot by their pursuers while in the act of endeavoring to swim to the Yantic and the merchant vessels in port.

The last and sharpest part of the fighting took place in the square in which this consulate and consular residence are situated, but I was fortunately protected by a guard of 30 men and 2 officers timely sent me by the commander of the Yantic.

General Pavon, acting under orders from Juarez, is now organizing a force in the Huasteca, for the object of recapturing this city and its garrison. Within the last two weeks about 400 men have left this garrison with their arms, and joined the command of Pavon.

A more perfectly disordered state of affairs than those that now exist in this place cannot be well imagined, but the presence of the Yantic has been a protection to both lives and property in this community irrespective of nationality.

Immediately after the troubles of the 14th were ended, all the prisoners were

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put upon a summary trial, but their lives have been spared through the timely interposition of Mrs. Chase and myself, several of whom will be sent this day to Matamoras. Whilst I am not insensible to the important protection which our government has given to its citizens in this place, still I beg to suggest that at least one of our gunboats may be stationed here until the government forces may obtain full control.

I have the honor to be, sir, with the highest respect, your most obedient servant,

FRANKLIN CHASE.

Hon. F. W. SEWARD,
Assistant Secretary of State, Washington, D. C.

Mr. Otterbourg to Mr. F. W. Seward.

No. 25.] CONSULATE OF THE UNITED STATES,
Mexico, April 17, 1867.

SIR: In pursuance of the resolution to defend the capital adopted in a council called together on General Marquez's return from the scene of his defeat, most rigorous measures have been resorted to for the exaction of instant payment of the forced loan and contributions imposed prior to his expedition. Soldiers have been stationed in the houses of recusants, and, where they could not succeed in eluding the vigilance of the police, heads of families have been imprisoned upon the hesitation to answer the impositions of the authorities. A second forced loan is exacted, and contributions based upon the most extravagant pretensions in political economy are levied anew upon the population. No resource has been left untouched that could possibly furnish the means of resistance, which it has been resolved to sustain to the last extremity.

Under the influence of this system of terror, many citizens of the Hanseatic towns have made urgent appeals to me for protection, the responsibility of which I have as invariably declined unless it be solicited by a written communication from the consul general of the league. Though the circular to consuls (a copy of which is herewith enclosed, No. 1) does not require such applications to be made in writing, I have been more decided in this reply to several verbal calls to the same effect of the consul general, by the difficulty experienced in shielding American citizens and their interests, which alone would appear motive sufficient to put on record the protection extended in the present dangerous crisis by the United States to the citizens of another power at the solicitation of their representative, the consul general of the Hanseatic cities. And the propriety of my decision is sustained more fully, if it be true, as intimated, that the reluctance to consent to this single condition proceeds on the part of the consul general from instructions received by him from the cities he represents to apply for countenance and advice to the minister of Prussia accredited near the government of Prince Maximilian.

I respectfully submit the entire subject to the judgment of the department, and shall await instructions as to any future action in the matter.

The liberal army, following up their recent success, is now massed around the city to the number of 20,000 men, as reported, and is making preparation to commence an attack in form as soon as the siege train shall have been received from Puebla.

Under an impression prevailing generally that but an ineffectual resistance can be offered to the forces now upon the capital, the corps of foreign representatives suspended their discussion of the terms of another protest against forced loans and contributions, in order to learn from the high Mexican functionaries their proposed action in the present momentous situation. On the reply that the city would be defended to the last cartridge, the diplomatic

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corps addressed to the secretary of foreign affairs, in return to the answer, enclosure No. 2, to a former protest, a notification (a copy of which I have not as yet secured) of their resolve to ask of their respective governments instructions in regard to their future relations with this government.

A letter from the consular agent at Puebla gives the information that the liberal authorities have imposed on that city a forced loan of $150,000, and a contribution of one per cent. on all capital exceeding $250. I have advised the consular agent, in reply to his request for instructions as to his conduct in the protection of American citizens against these impositions, that Americans would pay the legal imposts levied upon Mexicans, and that at a proper season the government of the United States would interfere wherever any infraction may have been committed upon the rights of their citizens.

I have the honor to be, very respectfully, your obedient servant,

MARCUS OTTERBOURG,
U. S. Consul, in charge of U. S. Legation.

Hon. F. W. SEWARD,
Assistant Secretary of State, Washington, D. C.

P. S.—No news that can be relied upon has been received from Queretaro.

[Enclosure No. 1.—Circular to consuls.]

LEGATION OF THE UNITED STATES,
Mexico, June 18, 1862.

SIR: On the 22d of May last I informed you that the republics of Bremen, Hamburg, and Lubeck had placed their citizens of Mexico under the protection of the United States, and requesting you to extend such protection, "should they need it." Some doubts have arisen as to the extent of your powers under this order. I have to inform you that in all cases where a consul of either of these powers resides in the same place with yourself, you are in no case to act as to the persons under his protection unless he shall request you. Where there is no such consul, you will of course extend such protection as may be proper to the citizens of either of said republics, in the absence of their proper consuls.

Very respectfully,

THOMAS CORWIN.

[Enclosure No. 2.—Translation.]

POLITICAL SECTION.

MEXICO, *April* 10, 1867.

The undersigned, assistant secretary of the department of foreign affairs, during the indisposition of his excellency the minister, and as he had the honor to announce in his communication dated 7th instant, addressed to his excellency the minister of his Majesty, dean of the diplomatic corps, has made report to his excellency the president of the department charged by the government with the collective note dated 6th of the same, relative to the anticipations which, in exchange for bills on Vera Cruz, the government has been obliged to ask for from various landed proprietors and merchants at this capital, among whom it is supposed may be some Belgian subjects, because Mr. Hooricks is one of the signers of that note.

His excellency being informed of the contents of that note, has thought proper to decide, in concert with the council of ministers, that it be said in reply

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to the chargé d'affaires of Belgium, that the present circumstances of the empire are notoriously such as to make necessary the exceptional measures that have been dictated, so that it cannot fall back from them at this moment, and that if there has been any excess in executing them, not occasioned by undue and disrespectful insubordination, the government will instruct its agents to conduct themselves with favor toward foreigners, provided they manifest, at the same time, the obedience and respect due to the public authority.

Such is the conclusion which the undersigned has order to transmit to the chargé d'affaires of Belgium.

The undersigned avails of the occasion to assure the chargé d'affaires of his Majesty the King of Belgium of his distinguished consideration.

J. N. PEREDA.

Mr. FREDERICK HOORICKS,
Chargé d'Affaires of his Majesty the King of Belgium.

Mr. Seward to Mr. Otterbourg.

DEPARTMENT OF STATE,
Washington, May 15, 1867.

SIR: Your despatch of the 17th of April, No. 25, has been received. You inform me that many citizens of the Hanseatic towns have made earnest appeals for protection, which you have declined to concede. You have also given me a copy of a circular instruction which was issued by Mr. Corwin, United States minister at Mexico, upon the subject of protection to citizens of those states, on the 11th of June, 1862.

We have now to take into consideration the present revolutionary situation of Mexico, and also the change which has occurred in the political condition of the Hanseatic towns. Those towns are now understood to be politically connected with and under the protection of the kingdom of Prussia, or at least constituents in the new North German Confederacy, of which Prussia is the leading state. It is understood that Prussia, with the consent of those towns, now represents them in their intercourse with foreign nations. Prussia, if I remember rightly, has recognized the so-called empire of Mexico, while the United States have persistently adhered to their recognition of the republic of Mexico. Under these circumstances no sufficient grounds exist for an assumption by the United States to extend protection or care over the citizens of the Hanseatic towns in Mexico.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

MARCUS OTTERBOURG, Esq.,
United States Consul, Mexico.

Mr. Otterbourg to Mr. Seward.

No. 32.] CONSULATE OF THE UNITED STATES,
Mexico, May 25, 1867.

SIR: The condition of affairs, in all but the increase of suffering among the masses of the capital, remains unchanged during the twenty days which have elapsed since my despatch dated May 5. Contributions and forced loans continue to be exacted inexorably, on the plea of the necessities of the soldiery at the ramparts, who withal receive but scanty pay or rations. The imposition of such contributions and forced loans, with painful and unceasing exertions, I

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have, to the present moment, succeeded in warding off from those under the protection of the consulate. Unusual rejoicings along the lines of the besieging forces on the afternoon of the 15th instant proclaimed some extraordinary event, and on the morning of the 16th rumors had already penetrated into the city of the fall of Queretaro on the day previous, and the surrender at discretion of Maximilian, his generals, entire army, and material of war. This report, confirmed over and again in every manner that could be required to insure belief, has been obstinately denied by the authorities in control of the capital, and tenaciously combated by the ministerial press. It is now understood that General Diaz only awaits the junction of the whole liberal force before this city in order to commence vigorous operations with 40,000 men, should his summons to surrender on the 27th be not responded to in the affirmative within three days.

Prince Maximilian, by the general voice, is courteously treated at Queretaro by his captors, and is to be subjected to trial by a council of war as soon as the constitutional government shall have been re-established in the capital. While the liberals have been warm in expression of their displeasure at the tone of the correspondence between the minister of Austria at Washington and the Secretary of State of the United States upon the treatment to be awarded to Maximilian, the journals of the ministry make it an occasion to reproach their opponents with subjection to the will of the American government. An article in "La Union" of the 10th of May so completely exposes the passions sought to be aroused against the United States as to claim the attention of the department.

The friendly relations suspended between the functionaries of the palace and the diplomatic corps have been further weakened by the withdrawal of the Spanish consul's exequatur on the allegation of disrespectful language employed in a protest published by that official against the sale of property belonging to a Spanish subject. In consequence of this determined measure of the authorities the minister from Spain, having demanded and received his passports left the city to-day with his entire legation.

The appeals for protection addressed by foreigners of every nationality to this consulate and, on the occurrences just narrated, by Spanish subjects in particular, have led me to reflect seriously upon the course I shall necessarily have to pursue should Mr. Campbell not appear in season to meet the early exigencies of his position as minister near the constitutional government of Mexico. In the conviction that the policy of the United States has never been to refuse countenance to those who rightly solicit their protection, I should feel authorized to exert officiously the influence of the consulate by serving whenever applied to as a medium of communication between foreigners and the government; and while thus acting I should endeavor to obtain security for the former, who would thus come to regard the authorities as their best protectors, and the government would accept the responsibility which naturally belonged to them, of regarding the security guaranteed alike to every nationality as a natural obligation.

Should the progress of events now promising a close to the actual contest place Mexico in possession of the constitutional government, I shall immediately advise Mr. Campbell, at New Orleans, and by the same courier inform the department at Washington.

Mr. Barksdale, of whose arrest and imprisonment the department was advised in despatch No. 29, has been acquitted of the charges brought against him and put at liberty. Mr. Dalcour, named in the same despatch, though absolved from the accusation of conspiracy, is yet a prisoner.

I have the honor to be, very respectfully, your obedient servant,

MARCUS OTTERBOURG,
U. S. Consul in charge of U. S. Legation.

Hon. F. W. SEWARD,
Assistant Secretary of State, U. S. of America, Washington, D. C.

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Mr. F. W. Seward to Mr. Otterbourg.

DEPARTMENT OF STATE,
Washington, June 17, 1867.

SIR: Your despatch No. 32, dated May 25, 1867, has been received.

I am, sir, your obedient servant,

F. W. SEWARD,
Assistant Secretary.

M. OTTERBOURG, Esq., *U. S. Consul, City of Mexico.*

Mr. Saulnier to Mr. Seward.

No. 13.] CONSULATE OF THE UNITED STATES OF AMERICA,
Vera Cruz, February 22, 1867.

SIR: I have the honor to inform you that I sent the enclosed to Colonel Du Pin, commandant superior of this city. He returned it to my messenger, telling him to say to me that he wished I would write my communications to him in French or Spanish. I declined to do so.

Every French authority and consulate, except the Mexican and said commandancia, have their flags up to-day. All the foreign vessels of war have the American flag at the main.

The American steamships Key West and Cortes arrived here from New York with provisions consigned to the French administration of war, (on 17th instant.) The Key West finished her discharging on the 19th, but as yet her freight money has not been paid. I have declined to act for these captains further than to advise them, viz: that to avoid the conflict of authority that the French treasury embark the freight money.

I met the intendant yesterday on the street, when he told me that he was only waiting an order from General Triant, commissary general, to pay over to me the duties I have paid on the freight moneys of the American steamers Concordia and Victor.

I have the honor to be, with great respect, your obedient servant,

E. H. SAULNIER,
Acting United States Consul.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Mr. Saulnier to Colonel Du Pin.

CONSULATE OF THE UNITED STATES OF AMERICA,
Vera Cruz, February 20, 1867.

DEAR SIR: The 22d of February being the anniversary of the birth of George Washington, I have the honor to invite you to join with me in the celebration of said day by ordering your flag to be raised over your office.

With assurances of my high esteem, I have the honor to be, with much respect, your obedient servant,

E. H. SAULNIER,
Acting U. S. Consul.

Colonel DU PIN, *Commandant Superior of Vera Cruz.*

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Mr. Saulnier to Mr. Seward.

No. 14.] CONSULATE OF THE UNITED STATES OF AMERICA,
Vera Cruz, February 22, 1867.

SIR: Since writing my despatch No. 13, at 9 o'clock, I advised you that Colonel Du Pin, commandant superior, had not put up his flag. I have now to advise you that at 11 o'clock a. m. the French is flying over his commandancia; also that the Mexican flag is now flying over the palace of this city.

I have the honor to be, with great respect, your obedient servant,

E. H. SAULNIER.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Mr. Seward to Mr. Saulnier.

DEPARTMENT OF STATE,
Washington, March 6, 1867.

SIR: Your two despatches, Nos. 13 and 14, of the 22d of February have been received.

It is a good rule, in the exercise of consular as well as diplomatic functions, to avoid, as far as consistent with true dignity, the taking as well as the giving of offence. The return to you by Colonel Du Pin, superior commandant of Vera Cruz, of your note inviting him to join with you in the celebration of the 22d of February by ordering his flag to be raised over his office, and his request through the messenger that you would write your communications to him in French or Spanish, were not altogether courteous. On the other hand, your request was made without instructions from this government, and the compliance with it on his part was optional with the commandant. I think it was as injudicious on your part to decline to write to him in French or Spanish in compliance with his suggestion, as it was injudicious on his part to require you to adopt one of those languages.

I express myself thus, not for the purpose of censuring a proceeding on your part which was prompted by a laudable spirit of national pride, but only for the purpose of showing that it is compatible with the national character to decline controversies on unimportant questions.

I am, &c.,

WILLIAM H. SEWARD.

Mr. SAULNIER,
Acting U. S. Consul, Vera Cruz, Mexico.

Mr. Saulnier to Mr. Seward.

No. 46.] CONSULATE OF THE UNITED STATES OF AMERICA,
Vera Cruz, June 20, 1867.

SIR: I have the honor to inform you that an arrangement has been agreed upon between Don Domingo Bureau, the imperial commissary in this city, and General Rafael Benavides, the commander of the liberal forces besieging this city, for the delivery of the city of Vera Cruz and the castle of San Juan de Ulloa to said liberal general within the next three days.

As an earnest of said arrangement, the commanding general Taboado was paid off yesterday, and embarked on board the Spanish mail steamer Ciudad Condal

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for Havana. This same General Taboado was opposed to entering into any arrangements with the liberals for the delivery of this city, and was also strong in favor of General Santa Anna.

Now the commanding general is General Mariano Camacho, and is in favor of giving up the imperial contest.

The only element of discord now is the French and Spanish troops in the imperial service in this city, who claim back pay. To enable General Camacho to pay them also, the merchants of Vera Cruz are withdrawing their merchandise from public store and paying the duties on them.

The imperial commissary is sick and heartily tired of his position. Guarantees have been given by General Benavides to all concerned in the imperial cause, provided the arrangement for the delivery to him of the city be carried into effect within the said three days.

The latest news from the city of Mexico is by telegraph to the camp of General Benavides, to the effect that on the 15th instant Marquez made a second attempt to cut his way out of the city but was driven back with severe loss.

I have the honor to be, with great respect, your obedient servant,

E. H. SAULNIER,
United States Consul.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Mr. F. W. Seward to Mr. Saulnier.

DEPARTMENT OF STATE,
Washington, June 24, 1867.

SIR: Your despatches from No. 42 to No. 45, both inclusive, have been received. * * * * * * *

I am, sir, your obedient servant,

F. W. SEWARD,
Assistant Secretary.

E. H. SAULNIER, Esq.,
U. S. Consul, Vera Cruz.

Mr. Saulnier to Mr. Seward.

No. 47.] CONSULATE OF THE UNITED STATES OF AMERICA,
Vera Cruz, June 25, 1867.

SIR: In my despatch No. 46 I advised you that an arrangement has been agreed upon between the imperial commissary, Don Domingo Bureau, and the commanding general of the liberal forces, for the delivery of this city within seventy-two hours, dating from noon of the 20th instant. The imperial commissary fell sick on the 20th, and in consequence he was unprepared until the 24th to treat with General Benavides. On the 24th a flag of truce was sent out, but as the city of Mexico had fallen into the liberal Porfirio Diaz's power, the commission was answered that the previous arrangements were null and void, and that orders had been received from General Diaz that they could not be treated with until they should lay down their arms and surrender at discretion. The imperial commissary will, in my opinion, go from here the first opportunity, and leave the situation in an unsettled condition. The French troops—some one hundred and fifty—are the most difficult to dispose of, as they

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claim back pay and their passages from here. The enclosed extra will inform you of the surrender of the city of Mexico on the 20th instant to General Porfirio Diaz. Also, one advising of the sentence of death on Maximilian, Miramon, and Mejia, which was carried into effect on the 19th, at the city of Queretaro.

The United States steamer Tacony returned here on the 21st instant from Pensacola, and now lies in this harbor.

I have the honor to be, with great respect, your obedient servant,

E. H. SAULNIER,
United States Consul.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

[Supplement to No. 19 of the Concordia, of Orizaba, June 20, 1867.—Translation.]

Ferdinand Maximilian, of Hapsburg, archduke of Austria, in league with Napoleon III to rob Mexico of its independence and institutions, usurper of its sovereignty, calling himself emperor, overthrown by the national will and made prisoner by the republican forces in Queretaro, on the 15th of May, 1867, and judged by the law upon offences against the independence of the nation of the 25th of January, 1862, and sentenced by the respective council of war to the extreme penalty, was executed in Queretaro on the 19th of June, 1867, at seven o'clock in the morning, together with his ex-Mexican generals, Miramon and Mejia. Peace to his ashes.

Here is the official notice of that momentous and notable event, which was received by telegraph to-day by the citizen General Alexander Garcia, governor and military commander of our State:

[Sent from Tacubaya June 19, 1867.—Received at Orizaba June 20, at 9.30 a. m.]

To the Citizen Governor of Vera Cruz:

The citizen General Escobedo sends me this telegram to-day from Queretaro:

"On this day I report to the minister of war as follows:

"'On the 14th day of the present month, at eleven o'clock at night, the council of war condemned Ferdinand Maximilian, Miguel Miramon, and F. Mejia to suffer the extreme penalty. The sentence was confirmed at these headquarters on the 15th. The 16th was fixed on for the execution, which was postponed till to-day by disposition of the supreme government.

"'It is now seven o'clock in the morning, and the said convicts, Maximilian, Miramon, and Mejia, have been shot.

"'Make this known to the citizen President of the republic.

"'ESCOBEDO.'"

DIAZ.

[Supplement to No. 19 of the Concordia, of Orizaba, June 21, 1867.]

LONG LIFE TO THE REPUBLIC, THE EASTERN ARMY, AND TO ITS WELL-DESERVING GENERAL-IN-CHIEF!—THE CAPITULATION OF MEXICO—SURRENDER OF ITS GARRISON, BOTH NATIVES AND FOREIGNERS, WITHOUT CONDITIONS.

The most enthusiastic jubilation is expressed at the reception of the glorious news that the capital of our republic is now in the power of our well-deserving forces, led by that valiant citizen General Porfirio Diaz. His imposing attitude, his courage in combat, and his untiring efforts have hastened this result, which

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all our brave citizens will hail as the last resting place that separates us from the reconquest of our national territory, that will never more be profaned by traitors. This victory will hasten the fall of Vera Cruz, now ready to open its gates to the patient and brave soldiers of our division. After such a brilliant and splendid victory our country will soon enjoy that long-desired peace so necessary to its prosperity, and will have the respect and admiration of the whole world. Citizen Benito Juarez, President of the republic, has given us the example. We now hail the triumph of right and justice in the republic. Let us hasten to proclaim the complete triumph of law and morals, so that we may proudly exclaim, "Long live Mexico—great, omnipotent, and happy!"

The news came by telegraph to-day, addressed as follows, to our worthy governor and military commander:

[Despatched from Tacubaya June 20.—Received at Orizaba the 21st, 1867, at 10.18 a. m.]

"Citizen General GARCIA:

"The capitulation of Mexico has just been signed. Its garrison, composed of Mexicans and foreigners, surrender unconditionally, and remain prisoners at the disposal of the supreme government of the republic. General Diaz is now leaving Chapultepec for Mexico to make the necessary arrangements for the preservation of public order.

"BENITEZ."

By previous telegram from citizen Licenciado Benitez, the secretary of citizen General Diaz, received this day, we have the following particulars:

"Marquez was abandoned by his adherents on the 19th. Tabera solicited a conference, that took place on the morning of the 20th; but General Diaz, not accepting the proposed conditions of surrender, renewed the bombardment that had been suspended till three in the afternoon from early morning. This brought the besieged to their senses; and at half-past six they offered to surrender."

RICARDO B. SUAREZ,
Editor and Proprietor.

Mr. Saulnier to Mr. Seward.

No. 48.] CONSULATE OF THE UNITED STATES OF AMERICA,
Vera Cruz, June 27, 1867.

SIR: I have the honor to inform you that the imperial commissary, Don Domingo Bureau, fled from this city on the evening of the 25th, taking refuge on board the Austrian steamer of war, Elizabeth, on her departure from here for New Orleans. General Don Luis Perez Gomez remained in command of the forces in this city and the castle of San Juan de Uloa. Yesterday morning a friend of his called on me and solicited an interview; said interview took place at the house of the British consul, in the presence of Commander Roe of the United States steamer Tacony; Captain Ainsley, of her Britainic Majesty's ship Jason; the commander of the French corvette Phlegston; the English, French, and Prussian consuls, and myself. General Don Luis Perez Gomez then formally delivered the city of Vera Cruz and the castle of San Juan de Uloa to the British, American, and Prussian consuls, only stipulating time sufficient to allow the foreign troops to embark. This is being done at this present moment, say 8 o'clock a. m., on the Mexican steamer Tabasco, for Mobile.

Immediately that the embarcation is effected the consuls will advise the city authorities that the city is at their disposition, and that they forthwith send a

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deputation to wait on General R. Benavides and invite him to enter and take possession of the city.

I have the honor to be, with great respect, your obedient servant,

E. H. SAULNIER,
United States Consul.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Mr. Saulnier to Mr. Seward.

No. 51.] CONSULATE OF THE UNITED STATES OF AMERICA,
Vera Cruz, July 2, 1867.

SIR: I have the honor to inform you that this city is perfectly quiet; as yet no one has been molested for political offences; the most of the chiefs had embarked from here previous to the entry of the liberal forces. General Ignacio Ala Torre has been appointed governor and commandant general of the State of Vera Cruz; he is expected to arrive here to-day. Dr. José A. Gamboa, of Oaxaca, is the new collector of customs in this city.

A succession of feast days, since the entry into this city of the liberals, say from the 27th to 30th of June, inclusive; illuminations, &c.

I have the honor to be, with great respect, your obedient servant,

E. H. SAULNIER,
United States Consul.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

[Supplement to the Revista.—Translation.]

COUNTRY, INDEPENDENCE, LIBERTY!

Constitutional order is now established in Vera Cruz. At this moment the worthy General Benavides and his brave soldiers are in the city. The meritorious Zamora battalion came in yesterday. After three months of privations and suffering, liberty and independence, those precious treasures of which we have been deprived for six years by the errors and unpatriotism of wicked Mexicans, are again restored to us. Now the conquered are fugitives; we will respect them; let history be their judge.

The Archduke Maximilian, chief of the faction that sought to burden us with a monarchy, has been judged, condemned, and executed. Peace to his tomb! Other chiefs have paid the forfeit of their lives for the crime of making common cause with the invaders.

Let us respect their memory! Our duty now is to forget past errors, and to labor faithfully to reconcile Mexicans and consolidate the government. Citizen Benito Juarez is the saviour of his country. May God reward him!

Citizens Benavides, Garcia, Baranda, Milan, and others, are the redeemers of Vera Cruz. Glory be to them! Zaragoza, Arteaga, Zalazar, Ferrer, Berna, and many others, died the death of the righteous. May their names be immortal!

Now our city is clad in colors, in homage to our brothers of the southern brigade, a testimony to the valor and patriotism it has ever shown. Let us bless the names of our saviours, and let us not forget that republicans are generous, great, and magnanimous.

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Peace and reconciliation; union and generosity; concord and toleration; peace to the nation; long life to Juarez, and to our valiant brothers of the Casemate and Vergara!

Citizen Alexander Garcia, general of division in Vera Cruz, and governor and military commander of that State, to its inhabitants, greeting:

Know ye, that, wishing to relieve the wants of heroic Vera Cruz, and alleviate its sufferings, endured for so long a time of siege, thus giving a proof that the government tries to ameliorate the condition of its citizens, and efface every trace of past misery, in use of powers with which he is invested, decrees:

Only Article. All meal, flour, sugar, corn, rice, beans, lard, coal, salt, and all food of prime necessity, brought into Vera Cruz, but not from foreign ports, shall be free of all duty for the space of fifteen days, beginning from the publication of this decree.

Let this be printed, published, circulated, and observed.

Done in Vera Cruz, on the 28th June, 1867.

ALEJANDRO GARCIA.

R. B. SUAREZ, *Secretary.*

Mr. Seward to Mr. Saulnier.

DEPARTMENT OF STATE,
Washington, July 12, 1867.

SIR: Your despatch of the 2d of July has been received, together with several interesting papers which accompany the same. Your proceedings therein mentioned are approved.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

Mr. E. H. SAULNIER,
United States Consul, Vera Cruz.

Mr. Otterbourg to Mr. F. W. Seward.

No. 33.] CONSULATE OF THE UNITED STATES OF AMERICA,
City of Mexico, June 21, 1867.

SIR: The capital of Mexico was surrendered yesterday, the 20th, at 7½ p. m., to General Porfirio Diaz, in command of the liberal army, after a vigorous blockade of more than seventy days.

General Marquez had suddenly disappeared the evening previous, leaving General Tabera with a demoralized garrison to bear the weight and odium of a defence protracted far beyond the rules of civilized war.

Referring to the diary, enclosure No. 1, for details connected with the siege, I have the honor to submit to the department a report of my proceedings during the delicate and perilous crisis through which this consulate has passed without compromitting, I trust, the neutrality or dignity of the United States government.

Persuaded finally of the fall of Queretaro, the French minister, in his anxiety as to the fate of Maximilian, requested officially that I would accompany the Prussian minister and the counsel who had been called to that city by the prisoner, and exert my good offices to the benefit of the archduke of Austria.

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In a conference with these gentlemen and others of the diplomatic corps, my objection to the proposal turned upon the want of instructions in the matter from Washington, and upon my opinion that the Mexicans ought, uninfluenced by outer pressure, to enjoy the undivided credit of lenity and forbearance, were they inclined to pardon Maximilian's errors; and that the susceptibility of the Mexican people already exhibited upon the subject clearly indicated the prejudice both to the archduke and the future relations of the United States with Mexico, did the agent of my government at this city make any move which could even remotely be interpreted as an interference with the sovereign action of the nation. These observations, recognized to be just by the eminent lawyers Mariano Riva Ralavio, Martinez de la Torre and E. Ortega, were concurred in by the foreign representatives present, who nevertheless urged me to procure from General Diaz a safe conduct through his lines for Father Fischer, regarded, inasmuch as he had been Maximilian's private secretary and constant attendant, as an important witness for the defence. The correspondence, enclosure No. 2, shows my compliance and the reply of General Diaz to the solicitations which anticipated the denial prepared to the same request by the functionaries within the limits besieged.

Generals Marquez and Lacunza, with whom as president of the ministry Maximilian had intrusted an act of abdication to be made public in any contingency like the present, were now alarmed lest the absence of these eminent personages should strengthen belief in a report, the truth of which they were actively enlisting falsehood and every species of deception to suppress, and interposed every obstacle from this departure from the city. The Prussian minister with the lawyers, the Austrian and the Belgian chargés d'affaires, notwithstanding numerous artifices put in play to detain them, succeeded in leaving on the 27th of May, and were within two days followed by the chargé d'Italy. Applications were also addressed in the last resort to the consulate, as the agent of the only government whom Marquez feared or any longer respected, to obtain permission for the consuls named by General Miramon to proceed to their mission at Queretaro. To my note, enclosure No. 3, making the request and explaining the motives therefor, no reply was returned. General Marquez already thought it unnecessary to respect either the rights or usages of society. From this moment the horrors of the situation frightfully increased. To the hunger of the masses were added the terrors of the wealthy. Maize and other articles available as food were seized for the soldiery or sealed up by speculators; from the rich, money was extorted day after day. Those who felt guilty of having anything left were afraid to appear abroad, and barred their doors alike against the authorities and the populace.

It became clear that I must no longer hesitate to claim openly for citizens of the United States exemption from arbitrary imposts and imprisonment, and the declaration was made public that all who ordered or effected outrages upon those residing under the protection of the American flag would be hereafter held responsible in their persons and property. At the same time our citizens were notified that there was no exception in their favor to the payment of contributions which could not be qualified as illegal.

Threats proceeding from General Marquez against the consul and all Americans were now reported. I considered it prudent to prepare for the safety of the government property and the liberties, perhaps the lives, of our people, and to that end invited Americans to enroll as a guard on duty and in readiness to be summoned at a moment's notice from the consulate. Twelve men were selected of the many who offered their services, arms and ammunition provided, and every necessary preparation unostentatiously taken for the defensive. Anxious withal to defer an issue which must change the neutrality held by the consul and all prudent American citizens, I offered to General Tabera, at the suggestion of many respectable Mexican gentlemen, to visit Tacubaya, provided the

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city were surrendered on my return, with unquestionable evidence of Maximilian's captivity. These conditions not proving acceptable to the so-called Lieutenant General Tabera, it thus became evident that Marquez's object was alone to secure his own safety, though the city were impoverished and its inhabitants perishing.

Thoroughly aroused at length by the report of the French agent at Tacubaya corroborating the news of Maximilian's captivity and pending trial, still a fact systematically ridiculed by the military power in Mexico, the French minister sought through the medium of this consulate a free passage beyond the besiegers' lines, with the intention of visiting Queretaro and averting, if possible, the fate of the prisoner. The whole correspondence connected with this subject is embraced in enclosures Nos. 4, 5, 6, 7, 8.

Enclosures Nos. 9 and 10 show why my mediation proved ineffectual to serve the minister. The commander of the liberal forces officially, indeed, refused to accede to the French minister's request, which on the refusal of the authorities within the city to grant the necessary passports was conveyed secretly to General Diaz by a volunteer messenger, at his own risk and hazard, but consented that Mr. Dano might pass through his lines to any point beyond the ground on which the liberal army was actually quartered.

The opinion hitherto entertained, that upon the Austrian soldiers of the garrison alone depended a protracted defence or an early release from the tyranny of Marquez, now spread into a general conviction. General Diaz, it was known, was resolved not to attempt to take the city by assault, and the garrison had failed in a sortie upon the lines of the besiegers. Could the Austrians be held to the standard of Maximilian, the populace would be kept in subjugation and the situation indefinitely prolonged. It was therefore of the highest importance to shake the confidence of the officers of this corps in Marquez's proceedings and expose their mistaken loyalty by documents in evidence of the captivity of the brother of their Emperor. Letters written in German by Maximilian and forwarded by the Prussian minister, the one to the Austrian Colonel Khevenhuller and another to myself, asking the interference of this consulate in behalf of a fellow-prisoner, Prince Salm-Salm, who had served in the federal army, were seized and destroyed by Marquez before the contents could be availed of. General Diaz, too, when besought to communicate officially to the American consulate the facts which must at once disarm resistance and absolve the Austrians from longer obedience, declined, with the remark that General Marquez had declared that he would neither receive any communication nor recognize any signature as official proceeding from the enemy's camp. So far General Marquez had been encouraged by impunity to a repetition of any outrage upon the persons and property of the inhabitants of Mexico; an order signed by him to arrest the consul and all Americans was stayed only through the firmness and moderation of the political prefect. Enclosed No. 11 showing that we were abandoned without the slightest guarantee to the caprice and enmity of a military power, which failed to every obligation and recognized no responsibility, I concluded to demand passports (enclosures Nos. 11, 12) for myself and all, being under the protection of the flag, who chose to leave the city. A guard was kept night and day, and a promise was given by General Diaz that on a preconcerted signal he would understand the consulate was attacked and would immediately come to our assistance. Those in power now redoubled their efforts to sustain the faith of friends and to confound the wakening belief to the gross deceptions practiced upon the population. One Colonel Arellano was announced to have penetrated into the city with the news of Maximilian's approach with a victorious army and numerous train. The press rejoiced over this happy event, and every expression of joy was exhausted; the wavering were ashamed of their doubts, and credited the most extravagant story offered to their acceptance. The Austrians, startled at their own disloyal thoughts,

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relapsed into a blind obedience. On the other hand, the passports asked for Americans were on various pretexts delayed, through the representation of different persons to the officials, that when the American consul left, the single barrier between Marquez and the victims of his outrage would be destroyed.

Still in need of money which could be obtained no more by the application of forced loans, daily contributions and other financial frauds, General Marquez gave orders to arrest and hold in prison a number of inhabitants, regardless of nationality, whom he had determined to keep without meat, drink, or rest, until they produced a certain amount assigned to each for payment. The Prussian consul regained his liberty after twenty-four hours' imprisonment at the price of $6,000; few escaped, according to their means and the influence of friends. It is reported that Marquez raised over one hundred thousand dollars by this operation.

From enclosures Nos. 13 and 14 it will appear that American citizens and interests did not escape this inquisitorial process, which prompted the language deprecated as threatening in the reply of the prefect. At this critical moment the Austrian chargé arrived at Tacubaya from Queretaro, whence he had been expelled, (enclosure No. 16, confidential,) with the other diplomats, by General Escobedo, and succeeded with great difficulty in remitting to this consulate, for Colonel Khevenhuller, official confirmation of Maximilian's imprisonment and proximate execution.

This testimony put in possession of General Tabera was communicated to General Marquez, who forthwith absconded. Negotiations were at once entered into for the Austrians with General Diaz, and this unparalleled history of credulity and submission on the one part, and of duplicity and tyranny on the other, was abruptly brought to a close. On the evening of the 19th an armistice was agreed upon, which gave occasion on the following day to an interview between Generals Tabera and Diaz. Meanwhile the political prefect, General O'Horan, had notified General Marquez that, convinced of Maximilian's captivity, he would no long r recognize him as lieutenant general. At mid-day of the 20th, when the result of the interview was known, I suggested through a friend to General Tabera to surrender on the conditions offered by General Diaz, fearing lest the instructions which the latter had asked by telegraph of his government at San Luis Potosi would not approve the lenient terms which he seemed inclined to concede. Notwithstanding, the whole day continued to be wasted by General Tabera in deliberations and attempts to secure favorable conditions, until at 6 o'clock p. m., as a last resort, an appeal was made to me by General Tabera in person to ask the liberal chief "what one republican had a right to demand of another." I accepted this mission, not feeling at liberty, as I remarked to General Tabera, to refuse my intervention at so critical a moment, when, after experiencing the horrors of the past, we were exposed to the dangers of sack and murder by a disbanding soldiery from within, and were threatened with an assault by the liberals from without.

General Diaz, whom I met at his batteries, said in reply to my petitions for guarantees for the city, that General Tabera's object had been merely to gain time; he had prolonged the armistice beyond the time agreed upon; and that the surrender must now be unconditional, for in less than a quarter of an hour he would open fire upon the city. In reply to my remark, that the troops might disband before he could enter the city, General Diaz commissioned me to tell General Tabera that he, General Diaz, would hold General Tabera responsible with life for the disorder that might ensue thereupon.

The Austrians, in whose name I spoke, he said, would be exposed to an attack from his troops if they left the city in the morning of the 21st, as agreed, for Tacubaya; they should shut themselves up in the palace and hoist the white flag; he guaranteed their lives, and would send them under an escort to Vera

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Cruz. All papers relative to this subject I will transmit to the department with my next mail.

Within an hour after my return with the answer to General Tabera's appeal, the city was surrendered after a furious cannonade, General Tabera himself a prisoner and the Austrians shut up in the palace, with the white flag hoisted in token of their neutrality.

I have the honor to be, very respectfully, your obedient servant,

MARCUS OTTERBOURG,
U. S. Consul in charge of U. S. Legation.

Hon. F. W. SEWARD,
Ass't Secretary of State U. S. of America, Washington, D. C.

[Enclosure No. 1.]

Details connected with the siege of Mexico.

MEXICO, *June* 21, 1867.

My last despatch, dated May 26, left matters in such a state that an early solution seemed almost certain. The situation, however, has gone on dragging beyond all expectations until yesterday, when at last the so-called imperial authorities gave up the city of Mexico to General Porfirio Diaz. The liberal troops have entered this morning in the most orderly manner, and the republican government remains, consequently, established anew in the capital of Mexico.

After announcing this happy and long expected event, I must recur briefly to the facts which have marked the three last weeks of the siege.

On the very day I wrote last, the Boletin Oficial declared in his evening edition that "the emperor was coming at the head of his victorious army to the rescue of the capital." That official misrepresentation was the starting-point of a system of falsehood and deceit, which has been carried on up to the last moment with the most audacious and shameless pertinacity. At the same time, however, the authorities began to take horses from every house, and even horsemen in the street, with such activity that they seemed to entertain the idea of a general sortie, in order to escape from the city. This supposition was corroborated the next day, when a sum of $150,000 was forcibly taken from the house of Barron, Forbes & Co., notwithstanding the protest of the British consul. Everybody thought these were preparations to go. It seemed, in fact, impossible that the three or four men who protracted the resistance only for their own sake could expose a city of 200,000 souls to the horrors of hunger, which were already beginning to be felt.

Besides, the evidences accumulated every hour about the fall of Queretaro, and the captivity of the emperor. On the 27th, MM. Martinez de la Torre and K. Mariano Riva Palaus (two eminent lawyers, and the last one father of the chief of the same name) received an invitation to go and present the defence of Maximilian. They consequently left on the 31st, and were followed by Baron Magnus, Prussian minister, Caroz Lagan, Austrian chargé d'affaires, Mr. Koorickse, Belgian chargé d'affaires, and Mr. Forcest, French consul at Mazatlan. All these gentlemen went to Queretaro in order to offer the emperor a proof of their sympathies, and tender him their support as far as it could go. It seems that they were at first allowed to see him, but some effort having been made to bribe the garrison in favor of the prisoner, they received peremptory orders to leave Queretaro within two hours. The princess Salm-Salm was at the same time arrested, as being implicated in the same complot.

Neither the public notoriety of all these facts, nor the increasing sufferings of the people, could deter General Marquez from his fixed purpose to hold the power and misuse it to the last. Flour and corn were almost exhausted and began to reach prices never known before. Bread ceased to be found at the bakers' since

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the 11th; corn continued to be sold irregularly in some deposits until the 5th, but the crowd which accumulated at those points was such that the majority could not get even a handful of grain. Deaths by starvation began to be announced in the suburbs, and matters reached soon such a point that every kind of food had to be resorted to by people of every class. Bean cakes, barley bread, horse meat became gradually the almost regular diet of even the richest families, the most lucky those who, by foresight, had kept in store a small provision of biscuit. What was meantime the condition of the crowd can be more easily conceived than depicted. Dog and cat meat have been of no uncommon use during these three weeks. But even so famine was daily on the increase, until at last the authorities felt the necessity of leaving free scope to the emigration of the perishing multitude. Thousands of men and women left the city every day, and it is calculated that almost a third of the whole population had gone out, though this diminution of consumers relieved in no way the condition of those who remained.

On the 9th, about dawn, the city was awakened by a heavy cannonade along all the lines, accompanied by the rolling of musketry toward the north. The fire kept up for about an hour and a half, when it began to slacken, and ceased altogether about 7 a. m. It was soon known that a sortie had been made by a large part of the garrison and repulsed with heavy loss. What its real object was has been diversely stated; the general opinion and the most probable is, however, that the chiefs intended to escape from the city and to take themselves to the mountains. Be it so or not, the attempt was not renewed, although new sorties were announced at various times, and the siege assumed more than ever the monotonous character of a blockade, scarcely varied now and then by some momentary cannonading.

On the 7th and 8th there were some symptoms of riot among the pupulace, on account of the increasing scarcity of every kind of food. The Iturbide theatre, where corn was said to be stored, was attacked and partly sacked, but General O'Horan soon appeared and quieted the crowd by offering to direct in person the investigations. He effectively began to go from one house to another taking possession of every provisions he found and distributing them promiscuously to the people. This kind of organized pillage continued the whole day, but was not resumed the next morning We had only a new candoo from General Tabera, ordering every inhabitant to give to the authorities whatever he had in store. This order produced no effect and could produce none, for the very simple reason that almost every kind of eatable was exhausted in the city. Flour had reached the fabulous price of one dollar and seventy-five cents to two dollars a pound. Corn was worth thirty to thirty-five dollars per hundred weight. What meat could be had must be paid one dollar a pound for, and horseflesh, after selling at six cents, had already gone up to eighteen or even twenty-five cents. The impossibility to confront for a long time such a way of living was becoming more and more apparent; I therefore decided, on the 10th, to ask passes in order to go out of the city with my family and those of our citizens who were anxious to seek more favorable quarters. Most of them put down their names on the list which I kept open for three days at the consulate. This step was more of a precaution than of a real intention to carry it to this end, and in fact I made no particular effort to urge the delivery of passes. It had at the same time a political bearing in showing to the so-called imperial authorities that the United States consulate ceased even to acknowledge them as a *de facto* government, and could not consent to participate, were it only by its presence, in the imposition they continued practicing toward the people.

Mr. Dano, the French minister, wished also to obtain permission to get out, in order I believe to go to Queretaro. He obtained his pass from the city authorities, but General Porfirio Diaz declared he could not give him a safe conduct, and could only communicate his wish to San Louis. In the end Mr. Dano had to stay.

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On the fourteenth there came suddenly a new levy of horses, while forced contributions were exacted from almost anybody on whom the government agents could lay their hands. Some of the most respectable foreign merchants were arrested, imprisoned at Fort Santiago, and kept there for hours, even for days, without food, without a mattress, and even without a chair. Among them was Mr. Bennecke, an old and most honored gentleman, who could not even be protected by his title of Prussian consul. He had to pay $6,000 in order to recover his liberty. So general was the money hunt that almost everybody who had anything to lose was obliged to conceal himself to escape prison.

As, notwithstanding the means employed, the profits were poor, General Marquez resorted to an almost incredible trickery. It was publicly and officially announced on the fifteenth that General Ramirez de Arellano, commander of the artillery corps at Queretaro, had entered Mexico on the preceding night disguised as an Indian peddler, and that he brought positive news from the emperor. Said news was that Arellano had left Maximilian and his army on the ninth at Maravatio, forty-nine leagues from Mexico; that they were making their way toward the capital, and that they could be expected here within four or five days. The farce was carried to the last extreme by ringing the bells, firing fire-crackers, and promenading through the city with music and hired hurrahs for the emperor. So bold was the affirmation, in fact, that many of those even who knew best were for a time uncertain of what they ought to believe.

Some thought at first that the real object of this trick was to reanimate the soldiers, especially the Austrians, in order to make a last effort to break up the besieging lines. But the following two nights having passed without anything of this kind, it soon became apparent that such an idea must be given up. Neither the men nor the horses were now able to confront the besiegers, in consequence of their utter exhaustion; they could scarcely stand up, and it was not an uncommon thing to see either man or beast fainting in the streets from want of food. It therefore became evident that the situation was to drag on as long as General Marquez saw fit, unless some unforeseen circumstance interfered.

Colonel Kavenmuller, of the Austrian cavalry, had so far shown himself most reluctant to admit the captivity of the emperor. At last he began to be shaken in his faith, and informed me that if a proof of the fact were given, he and his men could immediately resign service, as they had only engaged to protect Maximilian. As this was the most likely way to bring matters to an issue, I communicated Colonel Kavenmuller's request to General Diaz, who immediately returned a most positive answer, sending a letter from the Austrian charge himself, who certified that the emperor was a prisoner. General Diaz added that the foreigners in the imperial service had nothing to fear, provided they put down their arms before the city was taken.

The consequence was that Colonel Kavenmuller notified General Tabera of his unwillingness to serve any more, since he was sure that the emperor was a prisoner.

[Enclosure No. 2.—Translation.]

CONSULATE OF THE UNITED STATES,
Mexico, May 30, 1867.

YOUR EXCELLENCY: Having been officially notified that the minister of Prussia and the counsel of the Archduke Maximilian, whom the constitutional government designs to try by court-martial on the point of sitting at Queretaro, are about to leave this capital, I believe it to be my duty as a republican, of whom a letter has been solicited for the purpose, to recommend Father Fischer, that your excellency grant him a safe conduct to accompany the gentlemen aforesaid to Queretaro as a witness indispensable to the defence; a request I feel more emboldened

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to make, since, always alive to the interest and honor of the great republican party, I should regret deeply that its enemies could accuse it of having acted with passion or partiality, which would undoubtedly be the case were the presence of a constant and ocular witness of his conduct be unfortunately denied to the accused.

With assurances of the most distinguished consideration,

MARCUS OTTERBOURG,
United States Consul.

His Excellency General PORFIRIO DIAZ,
Chief of the Army of Operation of the East, Tacubaya.

Translation.]

REPUBLICAN ARMY, EASTERN LINE—GENERAL-IN-CHIEF.

Possessed of the contents of the estimable note which you were pleased to address me, recommending Father Fischer, in order that a "safe conduct" be issued him for the purpose of attending the trial of the Archduke Maximilian, it is my duty to manifest to you that the laws of the country forbid my conceding such documents in favor of the persons who have served the archduke during the time when he was styled emperor of Mexico; and although I should resolve to issue that which is solicited, it would be useless beyond the States within the limits of my command.

Not long since my government declared, on account of a passport with which D. Buen Aventura Sarabia, who had been prefect of the State of Durango by appointment from Maximilian, shielded himself, that such documents have no validity in connection with persons who have infringed the laws of the republic.

You know, likewise, that in order to communicate to Baron Magnus his call to Queretaro, I consulted the opinion of the President of the republic, and only by his authorization I resolved to expedite the corresponding passport.

I protest to you, with this motive, the assurances of my esteem,

PORFIRIO DIAZ.

MARCUS OTTERBOURG,
Consul of the United States, Mexico.

[Enclosure No. 3.—Translation.]

CONSULATE OF THE UNITED STATES,
Mexico, June 5, 1867.

GENERAL: Several persons of distinction have called on me to say that General Miguel Miramon has been lately taken prisoner, and has invited men learned in the law to go from this capital to defend him.

In deference to the request of individuals worthy of respect, and prompted by a spirit of humanity, I cannot hesitate in communicating these reports, and requesting that passports be issued to the counsel of General Miramon to leave the capital as early as possible in the discharge of their mission.

With assurances of consideration,

MARCUS OTTERBOURG,
United States Consul.

His Excellency General LEONARDO MARQUEZ.

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[Enclosure No. 4.—Translation.]

LEGATION OF FRANCE TO MEXICO,
Mexico, June 2, 1867.

Mr. CONSUL: I have had the honor to converse with you on several occasions on the fate of the emperor Maximilian, who interests me and engages my attention so earnestly for several months. You know how much I would have desired to have been able to go to Queretaro in order to obtain from the liberal party the adoption of evidence of moderation in an extreme case. On the one hand, my overtures to accompany Baron de Magnus were repelled; the advocates pretended that, far from being useful, the presence of the minister from France would be prejudicial, bring on an undue excitement of feeling which would hurt the defence, and would augment the severity of the council of war. On the other hand, some liberals, far from encouraging me to go to Queretaro, made me, through you, give advice to set out for Vera Cruz, in order not to expose the legation of the Emperor to a hostile manifestation which it would be difficult to check at the first moment of effervescence which would follow the entry of their troops into the capital.

I have sent to my colleagues of Austria, of Belgium, and of Italy, letters for several leaders I formerly knew. These letters have remained unanswered. In fine, not being able to go in person to Queretaro, I have found means to send an agent there who enjoys all my confidence, and whom I have furnished with full powers to take in my name the most active steps in behalf of the unfortunate emperor.

This agent informs me from Tacubaya that all the rumors put in circulation for a fortnight past, and so obstinately contradicted by the imperial authorities, are unhappily in all respects true. The life of the unfortunate Maximilian incurred the greatest dangers, and notwithstanding all remarks, all the hindrances, this one or the other, I must report your situation. Mr. Consul, you authorized me to wait an answer from General Porfirio Diaz, and I was very thankful to you for gaining me permission to go and converse with him on the measures to to be used to get me near to the emperor.

I hesitate, besides, that the intention in what concerned my government and person could be so ill-purposed as has been affirmed. Our acts are of public notoriety, and every one knows what I did personally to prevent the actual state of events, and stop effusion of blood which I considered useless.

You will oblige me much by putting it in my power to carry out my plan as soon as possible. As to my leaving Mexico, it has been long determined by my government, also that of my personal surroundings, but I will not carry it out until I have tried everything to fulfil important duties which are incumbent on me.

Accept in advance, Mr. Consul, my thanks, with the assurance of my friendly and devoted feelings.

ALFO. DANO,
Envoy Extraordinary and Minister Plenipotentiary of the Emperor of the French.

[Translation.]

TACUBAYA, *June* 16, 1867—10 o'clock evening.

We have been here some hours by order of Escobedo.

Maximilian blindly reckoned upon a plan of escape, impossible in reality, for this imprudent, and that of Salm* has been baffled by fine promises. Horricks,

* Wife of Prince Salm-Salm, formerly an officer in the federal army.

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Jules and I are always kept out of the way of these managements; we have always dissuaded Maximilian, but uselessly.

When he wanted to go beforehand and asked us for funds, we told him he should have them; it was then in our power to keep that promise, and without appearing in the matter and without being exposed.

On the 14th, at nine o'clock, the trial of Maximilian was to begin. It was then that Escobedo gave us two hours to get off, threatening us with death if we should return within four or five days.

Maximilian had been trapped, and our relations with him rendered us suspected.

The death of Maximilian was ordered at midnight yesterday.

If there is a slight hope of saving him it is at San Luis, where the American government can alone act efficaciously Magnus was included in the order sending us off, but to San Luis only. What he has done there we are in ignorance about.

JUNE 18—Evening.

Maximilian wrote us on the 14th that the empress Carlotta is dead. He thanks us also for the interest we have manifested in him.

At this moment news reaches us that Juarez has suspended, and had given the best hopes to Mr. Campbell's secretary, who is at San Luis. If this is confirmed we will inform you of it as soon as we can.

JULES, *Italian Chargé.*
HORRICKS, *Belgian Chargé.*
FOREST, *French Consul, Mazatlan.*

The foregoing was remitted to the French legation in cipher, from which it was correctly interpreted.

[Enclosure No. 5.]

CONSULATE OF THE UNITED STATES,
Mexico, June 3, 1867.

SIR: I have the honor to acknowledge the receipt of your note of yesterday, and shall endeavor immediately to communicate with General Porfirio Diaz for the purpose of obtaining the authorization that shall open to your excellency a free passage through the lines of the besieging army.

I avail myself of this opportunity to express to your excellency the assurance of my most distinguished consideration.

MARCUS OTTERBOURG,
United States Consul.

His Excellency A. DANO,
Envoy Extraordinary and Minister Plenipotentiary of his Majesty the Emperor of the French.

[Enclosure No. 6.—Translation.]

CONSULATE OF THE UNITED STATES,
Mexico, June 5, 1867.

EXCELLENT SIR: I beg that you have the kindness to remit me a safe conduct for Mr. Robert Beckman, whom I think of sending to Tacubaya on a matter which has no connection with the political situation of this capital—a favor for which I shall be obliged to your excellency.

Your most attentive servant,

MARCUS OTTERBOURG,
United States Consul.

His Excellency General D. RAMON TABERA, *Present.*

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[Translation.—Private.]

MEXICO, *June* 6, 1867.

ESTEEMED SIR: These headquarters do not issue documents authorizing departure from the city, and therefore I do not send that which you are pleased to ask for Mr. Robert Beckman, but the said individual can apply at the prefecturate, where the passports he desires are issued, as there is no impropriety in conceding one to him.

Without other motive I place myself at your disposal as your very attentive servant,

R. TABERA.

MARCUS OTTERBOURG, Esq.

[Enclosure No. 7.—Translation.]

CONSULATE OF THE UNITED STATES,
Mexico, June 6, 1867.

ESTEEMED SIR: I again trouble you with the request to give a passport to go and return to Mr. Robert Beckman, whom I am interested in sending to Tacubaya on account of a private matter which has no connection with the political situation of this capital.

Mr. Beckman is accompanied by his servant, John Rodriguez.

Hoping that you will excuse this interruption of your very important occupations, I am, general, your obedient servant,

MARCUS OTTERBOURG,
United States Consul.

His Excellency General THOMAS O'HORAN,
Political Prefect.

[Enclosure No. 8.—Translation.]

CONSULATE OF THE UNITED STATES,
Mexico, June 7, 1867.

GENERAL: Mr. A. Dano, minister from France resident in this capital, being desirous to leave for Queretaro, I have at his request addressed a communication, a copy of which is at the disposal of the authorities, asking of General Porfirio Diaz to grant Mr. Dano a free passage as far as Tacubaya, through the lines of the forces besieging this plaza.

As it is useless to mention, since they are public and notorious, the ends which Mr. Dano proposes on undertaking a journey in moments so difficult, I restrict myself to informing General Marquez that on seconding the views of Mr. Dano as appears from copies of the correspondence adjoined, I have encountered the order recently given, which prohibits the issue of passports to those who wish to leave the city, and to request that this difficulty be removed by instruction which shall permit the passport to be signed at the ministry of war for Mr. Beckman, who is in every other respect prepared to set out with the object indicated.

With assurances of the highest consideration,

MARCUS OTTERBOURG,
United States Consul.

His Excellency General LEONARDO MARQUEZ.

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[Enclosure No. 9.—Translation.]

CONSULATE OF THE UNITED STATES,
Mexico, June 5, 1867.

YOUR EXCELLENCY: Mr. A. Dano, minister from France, having manifested to the consul of the United States his desire to leave the capital, at the request of that gentleman and complying with a duty in view of the relations between the United States and the constitutional government of Mexico, I beg that your excellency will be pleased, should you think it proper, to remit by the gentleman charged with the delivery of this note, a safe-conduct which shall allow Mr. Dano to pass, accompanied by his secretary, through the lines of the besieging force as far as Tacubaya, where he can better adopt his ulterior means.

And on communicating it to your excellency I avail myself of the occasion to protest the assurances of my highest consideration.

MARCUS OTTERBOURG,
United States Consul.

His Excellency D. PORFIRIO DIAZ,
General-in-Chief of the Eastern Line of Operations, Tacubaya.

[Enclosure No. 10.—Translation.]

MEXICAN REPUBLIC,
HEADQUARTERS OF THE EAST SECTION OF GOVERNMENT,
Tacubaya, June 10, 1867.

Mr. CONSUL: I have received your note of the 5th instant, in which you are pleased to ask of me a safe-conduct for Mr. Dano, in order that in company of his secretary he may pass through the lines of the forces besieging the capital; and in reply I comply with the duty of telling you that, not being able to yield to your request without an express order, I shall remit a copy of your note to the government of the nation for the proper determination upon its contents.

I protest to you the assurances of my personal consideration.

PORFIRIO DIAZ.

The CONSUL *of the United States in the City of Mexico.*

[Enclosure No. 11.—Translation.]

CONSULATE OF THE UNITED STATES,
Mexico, June 10, 1867.

The undersigned not being able to discharge efficiently, under his instructions, the duties which in the present circumstances the charge of the consulate and the archives of the United States legation in this capital impose upon him, finds himself, after a prolonged struggle against the situation and in his own despite, compelled to address to General Thomas O'Horan, political prefect, a request that he will have passports issued for the undersigned to leave the city with his family, accompanied by such American citizens and other persons entitled to the protection of the American flag who may wish, for reasons not unknown to his excellency the political prefect, to take advantage of the opportunity to withdraw from Mexico

With assurances of high consideration,

MARCUS OTTERBOURG,
United States Consul.

His Excellency General THOMAS O'HORAN,
Political Prefect, Mexico.

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[Enclosure No. 12.—Translation.]

MEXICO, *June* 10, 1867.

The undersigned has the honor to reply to the note from the consul of the United States, of this date, with the request that he have the kindness to remit a list of the persons who are to accompany him in his departure, in order that the name of each might be inscribed on the respective passports.

Those of the consul and his family are enclosed with this note.

I renew to you the assurance of my attentive consideration.

T. O'HORAN, *Political Prefect.*

[Enclosure No. 13.—Translation.]

CONSULATE OF THE UNITED STATES,
Mexico, June 15, 1867.

The undersigned, consul of the United States, has to communicate to his excellency General Thomas O'Horan, political prefect, to whose attributes it unfortunately belongs to apprehend the persons marked by the military power for the purpose of extorting money, that D. José Anto. Mendizabal, D. Miguel Lizardi, and D. Carlos Widmann have been imprisoned since yesterday in the presidio of Santiago.

As these gentlemen are under the protection of the flag of the United States, the undersigned, after having exhausted every resource and conciliation in the lengthy period of arbitrary acts aimed at the persons and interests of American citizens resident in this capital, believes that the moment has arrived to declare to his excellency the political prefect, that if Messrs. Lizardi, Mendizabal, and Widmann do not find themselves uninjured in their houses before three o'clock this afternoon, all the serious consequences which must ensue will rest upon the individuals who have participated in their arrest and imprisonment.

The undersigned has the honor to renew to his excellency the assurances of his esteem and consideration.

MARCUS OTTERBOURG,
United States Consul.

General THOMAS O'HORAN,
Political Prefect.

[Enclosure No. 14.—Translation.]

POLITICAL PREFECTURE OF THE DEPARTMENT
OF THE VALLEY OF MEXICO,
Mexico, June 15, 1867.

I received your honor's note of to-day, and in reply I must explain that the consulate has been incorrectly informed as to this prefecturate being charged by his excellency General Marquez to effect the apprehension of certain individuals, and among them that of the American citizens D. José Anto. Mendizabal, D. Miguel Lizardi, and D. Carlos Widmann, since it only furnished his excellency General Marquez aforesaid with its police agents to point out the dwellings of the persons who were to be apprehended by the adjutants themselves of his excellency General Marquez.

As to the imprisonment of the citizens I can assure your honor that they shall be set at liberty to-day in virtue of the reasons which I have employed in their favor.

It is painful to me to make known to your honor that I have seen in your note to which I am replying, threats to which I have given no occasion, which I believe I do not merit, and which I deem unnecessary in claiming the liberty

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of American citizens—since the consulate has ever, as it will always find in me the highest regard and firmest support alike with all American citizens. Nevertheless, I have the honor to assure your honor that this circumstance shall not alter my kind feelings towards the American flag and to the citizens of that republic.

I have the honor to protest to your honor the assurances of my respect.

T. O'HORAN, *The Prefect.*

The CONSUL *of the United States of America.*

Mr. Otterbourg to Mr. F. W. Seward.

No. 35.] CONSULATE OF THE UNITED STATES,
City of Mexico, June 27, 1867.

SIR: At the moment of the surrender of the city to the liberal army, several prominent persons sought refuge in this consulate. Those compromised by their connection with the so-called empire, with the exception of one individual, whose admittance was sanctioned by competent authority, I, with violence to my own feelings, declined to receive.

Many ladies asked protection under my roof, in fear of the outrages which might be perpetrated during the night of the occupation by a supposed disorderly rabble.

These alarms, however, subsided when the few troops which entered the city were seen to conduct themselves with perfect order, and to be held in proper control. The night of the 20th passed undisturbed, unless by the report of fire-arms, which were discharged by the soldiery in their flight from the trenches and barracks. By the morning of the 21st D. Juan José Baz, political prefect, had taken every precaution conducive to the peace and security of the capital, interrupted by the soldiers of Suiraya who were caught while attemping to rob and instantly shot.

The enclosed devices, dictating measures of police and retributive justice, manifest a spirit of moderation little anticipated by the friends or enemies of the constitutional government.

An order to the several European representatives and consuls to lower their flags, then hoisted upon their respective consulates and legations, was the sole instance of active interference with the previous customs or habits of the capital.

The necessities of the army, for which the funds were necessary, urgently demanded attention. I offered to General Diaz to supply the money for his immediate wants, through a loan to which only certain capitalists would be allowed to contribute, each, a certain amount, to be returned without payment of interest, at the expiration of a reasonable term. A strong representation was made to him of the danger to the constitutional government, if by a repetition of forced loans and contributions it should attract to itself any of the odium belonging to the military power, which had exasperated and impoverished the citizens by extortionate demands upon their property. General Diaz recognized the propriety of these considerations, and expressed his readiness to accept a voluntary loan upon these terms, from the parties who do not fall under the displeasure of the government.

The capitalists, to whom I applied to make my offer effective, readily contributed towards a voluntary loan on hearing the reasons advanced in its favor, of which the most forcible appeared to be that they would in this manner receive a guarantee against impositions of forced loans or extraordinary contributions in the future.

Enclosures Nos. 1 and 2 furnish copies of my note placing $200,000 at General Diaz's disposal, and his acknowledgment thereof, leaving to my discretion to

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designate with the contributors the guarantee and mode of reimbursement of their respective shares in the entire amount.

It would be both premature and difficult to attempt to characterize the actual situation of Mexico, which would appear rather from the men provisionally directing its affairs, than from any deeper indication, to be entering upon a new era.

I have the honor to be, very respectfully, your obedient servant,

MARCUS OTTERBOURG,
United States Counsel, in charge of U. S. Legation.

Hon. F. W. SEWARD,
Assistant Secretary of State U. S. A., Washington.

[Enclosure No. 1.]

CONSULATE OF THE UNITED STATES,
Mexico, June 24, 1867.

The consul of the United States has the pleasure to inform the citizen General Don Porfirio Diaz that he has succeeded in procuring $200,000 towards an amount necessary to cover the immediate necessities of the liberal army, for the supply of which he was requested to employ his intervention.

The very just representations which the consul was enabled to make as a motive for this loan removed at once every difficulty in the way of the parties, invited to assist by their friendly contributions in the fulfilment of the end proposed.

Acquainted with the desire of the United States government to see established in Mexico a permanent government, the consul of the United States begs to assure the citizen general that he shall be ever ready, within the scope of his duty, to further the wishes of the United States government, and aid in the settlement of peace and order in Mexico.

With assurances of the highest consideration,

MARCUS OTTERBOURG,
United States Consul.

The Citizen General D. PORFIRIO DIAZ,
Commanding Eastern Army of Mexico.

[Enclosure No. 2.—Translation.]

TACUBAYA, *June* 25, 1867.

MR. CONSUL: I have received your note of yesterday, in which you are pleased to communicate to me, that by common consent of the proprietors and mercantile establishments named in the list accompanying your note, you have collected the amount of two hundred thousand dollars as a voluntary loan without interest for the purpose of furnishing it to the national army, in order to meet their most pressing necessities.

Profoundly grateful to you and to the persons who have generously contributed to its success, I return you all the warmest thanks, while there remains to me alone to request of you, that, together with the same persons, you will do me the favor to point out the internal revenue or custom-house dues which you may desire to be devoted to the early reimbursement of this amount, in order that it may be set apart with that object with the strictest and most religious punctuality.

Accept, Mr. Consul, the assurances of my attentive consideration.

PORFIRIO DIAZ.

MARCUS OTTERBOURG,
Consul of the United States, Mexico.

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[Translation.]

Citizen Juan J. Baz, political chief of the capital of the republic, to its inhabitants, makes known:

That considering the present condition of the capital, and how necessary it is to avoid all causes of disorder, he decrees as follows:

ARTICLE 1. The introduction and sale of pulque, rum, and beer in this city, is prohibited for three days.

ARTICLE 2. The above articles may be introduced on the fourth day, but can be sold only from six to three o'clock.

ARTICLE 4. Any one who injures buildings, gardens, or public monuments, besides paying for the damage done, shall be fined from twenty-five dollars to one hundred dollars, or be imprisoned for one month, or one year.

ARTICLE 5. Games of chance are prohibited, under the penalties fixed by the police regulations of 1856 and 1857.

ARTICLE 6. It is forbidden to carry arms without license, under the penalties fixed by laws of the above period.

Therefore, I order this to be printed, circulated, published, and observed.

Independence and liberty! Mexico, June, 1867.

JUAN J. BAZ.

Juan José Baz, political chief of the capital of the republic, to its inhabitants, makes known:

That the citizen general-in-chief of the eastern army, in a circular of the 27th April, of the present year, decreed, among other things, as follows:

1. Homicide, arson, rape, and robbery, shall be punished with death, without regard to the rank of the person who commits the crime. Robbery is the taking of property, without orders from the general-in-chief, under any pretext whatever. Homicide is the killing of a person by another, who has no right to punish outside of the law.

2. Robbers or thieves, taken in the act, shall be instantly executed by the political chiefs of the districts where the crime is committed, under act identifying the person and the crime he is guilty of.

Ordered to be printed, promulgated, circulated, and enforced.

Independence and liberty! Mexico, June, 1867.

JUAN JOSÉ BAZ.

Citizen Juan José Baz, political chief of the capital of the republic, to its inhabitants, makes known:

That from the publication of this order, all inspectors and sub-inspectors that were in office in May, 1863, shall serve as policemen now, and present themselves at the deputation for orders. Those that have served the empire, are excluded from this regulation.

JUAN J. BAZ.

MEXICO, *June* 21, 1867.

Citizen Juan José Baz, political chief of the capital of the republic:

In obedience to the law decreeing the dissolution of religious communities, the members of such shall quit their convents within forty-eight hours, and present themselves to the officers appointed by this department.

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That this may be generally known and obeyed, I order it to be printed, published, and circulated.

Independence and liberty! Mexico, June 21, 1867.

JUAN JOSÉ BAZ.

Citizen Juan José Baz, political chief of the capital of the republic, to its inhabitants, makes known:

The citizen general-in-chief ordered me yesterday to form a municipal board to preserve order in the capital of the republic, and the following citizens have been named for that purpose:

Antonio Martinez de Castro, Manuel Maria Zamacona, Rafael Dondé, Jose Maria Lafragua, Lucia Padilla, Augustin del Rio, Manuel Villamil, Manuel Inda, Francisco Montes de Oca, Ignacio Baz; Cipriano Robert, secretary; Pantaleon Tovar, treasurer.

Therefore, I order this to be printed, published, circulated, and duly enforced.

Independence and liberty! Mexico, June 21, 1867.

JUAN JOSÉ BAZ.

Mr. Seward to Mr. Otterbourg.

No. 4.] DEPARTMENT OF STATE,
Washington, July 12, 1867.

SIR: I have just now had the honor to receive your careful and voluminous despatches of the 21st of June, No. 33, and of the 27th of June, No. 35, with accompanying documents. These papers contain important and interesting accounts of the surrender of the city of Mexico, and its occupation by the army of the republic.

I have been able to bestow upon them only a cursory perusal. After they shall have received the attention of the President, I shall take occasion to refer to them, perhaps, at large. In the mean time, you will take an early occasion to present your credentials to the President of the republic.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

MARCUS OTTERBOURG, Esq., &c., &c., &c.

No. 4.

ENLISTMENTS AT HAVANA.—1, 2, 3.

Mr. Romero to Mr. Seward.

[Translation.]

MEXICAN LEGATION TO THE UNITED STATES OF AMERICA,
Washington, March 20, 1867.

Mr. SECRETARY: I have the honor to inform you that in a communication, dated Havana, 20th current, which has reached me to-day, I am advised that Don Ramon Carvallo, who acts as consul of the so-called Mexican empire in Cuba, was enlisting men to serve in defence of Vera Cruz; that he gave twenty dollars bounty, and promised those whom he enlisted that they should receive one dollar daily from the time of their landing at Vera Cruz; that at that

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date there were already enrolled a long list of Spanish soldiers, acclimated, and whose time had expired, who were to leave Havana for Vera Cruz on the 22d, aboard the steamer Paris, forming the first remittance, and that this was doing with the knowledge of the Spanish authorities. The source from which these important reports come to me cause me to regard them as authentic.

Believing that the government of the United States is disposed to regard the enrolling of Spaniards in a Spanish colony to interfere in the internal difficulties of Mexico, in the same manner in which it regarded the recruitment of Austrians, which was for the like purpose, made in the Austrian empire, I have thought proper to transmit to you, without delay, these reports.

I gladly avail myself of this opportunity to renew to you, Mr. Secretary, the assurance of my most distinguished consideration.

M. ROMERO.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

Mr. Seward to Señor Romero.

DEPARTMENT OF STATE,
Washington, April 1, 1867.

SIR: I have the honor to acknowledge the receipt of your communication of the 27th ultimo, stating that you have received information that Mr. Carvallo, the consul of the so-called Mexican empire at Cuba, is enlisting men for the armies of his government.

I avail myself of the opportunity to renew the assurance of my high consideration.

WILLIAM H. SEWARD.

Señor Don MATIAS ROMERO, &c., &c., &c.

Mr. Romero to Mr. Seward.

[Translation.]

MEXICAN LEGATION TO THE UNITED STATES OF AMERICA,
Washington, April 13, 1867.

Mr. SECRETARY: Referring to the note which I had the honor to address to you on the 27th of March last, relative to the enlistments that were being made in the island of Cuba of Spanish soldiers whose time had expired, for the service of the rebels of Mexico shut up in Vera Cruz, I remit to you to-day the copy of a communication which I have received from the commercial agent of the Mexican republic in Havana, dated the 5th instant, and of the documents annexed to it, all relating to the affair referred to.

At the same time I have seen in the New York papers of yesterday the news of the arrival at Vera Cruz of the Spaniards that left Havana in the steamer Paris; the most of them bring artillerymen, recruited to manage the cannon that keep that city in the power of the rebels. (No. 6.)

Wishing to keep the government of the United States informed of these events, I take the liberty to remit to you the above-mentioned documents.

I take advantage of this opportunity to renew to you, Mr. Secretary, the assurances of my very distinguished consideration.

M. ROMERO.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

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No. 1.

No. 5.] COMMERCIAL AGENCY OF THE MEXICAN REPUBLIC,
Havana, April 5, 1867.

CITIZEN MINISTER: Enclosed I have the honor to send you an open package for the citizen minister of foreign relations of the republic, which I entreat you to have the kindness to transmit to its place of destination, after having informed yourself of its contents. I allow myself to call your attention respecting the affair of which I treat in it, on the enlistment of people in the so-called consulate of the empire, so that you may be able to proceed in the most proper manner, so as to avoid, as far as possible, the said act of open hostility on the part of the superior government of the island, as it has been proved to me that the captain general approves of it and protects it.

* * * * * * *

Be pleased to accept, Mr. Minister, the assurances of my particular consideration.

A. HOFFMAN Y URQUIA.

Citizen Minister ROMERO,
Envoy Extraordinary and Minister Plenipotentiary of the Mexican Republic in Washington.

WASHINGTON, *April* 13, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 2.

No. 6.] COMMERCIAL AGENCY OF THE MEXICAN REPUBLIC,
Havana, April 5, 1867.

CITIZEN MINISTER: On the 16th of March last, as you must be aware, the national territory was definitely evacuated by the French army. When the French left Vera Cruz they gave up the custom-house to the traitors, as well as all the war material to be found in that place; a certain Antonio Robledo acting as political prefect, and a man named Perez Gomez doing the duty of military commander. There are 1,200 men garrisoned in the city. The government forces, amounting to about 2,000 men under the command of General Benavides, held the city strongly besieged, so that no fresh provisions could come in, and had already begun to throw grenades; but I learn that General Benavides is sadly in want of heavy artillery, so he can effect nothing decisive. The strictest vigilance is exercised in the city; nobody dares to speak, and incarceration and exile is the order of the day. On the 2d day of March, twenty persons were immediately imprisoned, or banished to Yucatan; among them were Ramon V. Vila, Juan Pastorisa, Ramon Laine, Eduardo Herrera, Rafael Zamora, Manuel Diaz Miron, Lorenzo Portilla, and another, who were embarked in a schooner. Those individuals, on getting out to the open sea, bound the captain, and obliged him to put into Alvarado, where they are now to be found.

Many other persons are now in this city, who have emigrated for fear of the persecution to which all republicans are now subject there.

The recent news here is that Puebla is besieged, and had been several times assaulted, half of the town being held by General Porfirio Diaz. There is absolutely no news from the interior, and more than a month has passed since letters were received from the capital.

I have a very important piece of news to communicate to you from this place. As soon as the siege of Vera Cruz was known here, the so-called consul of the Archduke Maximilian opened a recruiting office at his place of business, to enlist

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armed men and send them to Vera Cruz to sustain the pretended empire. As soon as I learned the fact I endeavored to investigate the affair, and found out it was true beyond a doubt, when I immediately repaired to the consul general of the United States in this city, with the annexed communication, marked No. 1. I had an interview the next day with that gentleman, who told me he had seen the captain general on the subject, and he told him he had no knowledge of the facts, but would send and find out about it, and if it were true, he would take measures to have it stopped; yet, after all this, the recruiting has continued publicly, so that everybody knows of it, and in fact two lots of men, fifty in number each, have already been shipped to Vera Cruz; and I learn from various sources that the captain general, far from trying to prevent it, actually approves of it. In view of this I have procured undoubted proof, which I send you, marked number 2, as well that the supreme government of the nation may have an exact knowledge of the fact, so as to know how to act, as that the United States consul general may be convinced of the truth of my assertion. I had another interview with the same consul yesterday, showed him my evidence, and begged him to see the captain general once more upon the subject, which he promised to do to-day, telling me to come back in the evening to hear what the captain general should say. At the same time I requested him to inform his government of the fact, so that the government of the United States might demand of Spain a rigorous observance of strict neutrality. All of this I equally place in the knowledge of the citizen minister plenipotentiary of Mexico in Washington.

I must also inform you, that you may communicate it to the citizen President, of the animosity that the captain general of the island entertains towards our government, and to do this I enclose to you, marked No. 3, various documents, calling your particular attention to the letters of Mr. Fernandez de Coca.

* * * * * * *

Having nothing more to impart at present, I beg you to place this communication in the knowledge of the citizen President, and I supplicate you, Mr. Citizen Minister, to accept the assurances of my very distinguished consideration.

A. HOFFMAN Y URQUIA.

Citizen SEBASTIAN LERDO DE TEJADA,
Minister of Foreign Relations of the Mexican Republic.

WASHINGTON, *April* 13, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 3.

HAVANA, *March* 31, 1867.

SIR: Understanding that proof is required of the fact that recruiting is now going on in the house of Mr. Carvallo, agent of the government of the Mexican empire, I see no impropriety in telling you that I went one day this month to that house to enlist as a soldier, and the conditions proposed were to give me twenty dollars on embarking, and a dollar a day for a year, in favor of the service of the government of the empire and against the government of the republic, they paying the passage—that is, the imperial agents—to which I did not consent. And that is all I can truthfully say on the subject.

Yours, &c.

PEDRO BELTRAN.

Señor Don ANTONIO HOFFMAN Y URQUIA,
Commercial Agent of the Government of the Republic of Mexico in Havana.

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On this date Don Pedro Beltran presented himself at this commercial agency, at the request of the subscriber, to swear to his signature, which he does in the presence of the undersigned witnesses.

A. HOFFMANN Y URQUIA,
Commercial Agent of the Mexican Republic.
PEDRO BELTRAN.

Then comes a seal with the following inscription:
Commercial agency of the Mexican republic, Havana.
Witnesses:
G. M. ISLAS,
JOSÉ VALENTE BAZ.

WASHINGTON, *April* 13, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 4.

HAVANA, *April* 2, 1867.

SIR: I inform you that Mr. Carvallo, consul of the Mexican imperial government in this city, has opened a register to recruit persons of all sorts who are willing to enlist in the service of the empire against the republic. This is a public and notorious fact, and I this day give my testimony to corroborate it by stating that I went to enlist myself at that person's office.

The conditions proposed were these: Engagement as a soldier in the service of the empire, to fight against the republic for one year, for the sum of twenty dollars on embarking, and one dollar per day for the space of one year, to which I answered it did not suit me, and retired. And this is all I know about it, and I communicate to you accordingly.

Yours, &c.,
PRUDENCIO DE LA CRUZ VALDEZ ALVAREZ.

Señor Don ANTONIO HOFFMANN Y URQUIA,
Commercial Agent of the Government
of the Republic of Mexico in Havana.

HAVANA, *April* 3, 1867.

On this day appeared Don Prudencio de la Cruz Valdez Alvarez in this commercial agency, on petition of the undersigned, to attest his handwriting, which he does in presence of the subscribing witnesses.

A. HOFFMANN Y URQUIA,
Commercial Agent of the Mexican Republic.
PRUDENCIO DE LA CRUZ VALDEZ ALVAREZ.

Then follows the seal:
Commercial agency of the Mexican republic, Havana.
Attest:
G. M. ISLAS,
JOSÉ VALENTE BAZ.

WASHINGTON, *April* 13, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 5.

HAVANA, *April* 3, 1867.

SIR: In reply to the interrogatories you were pleased to make, I say: It is true that in the house where the imperial Mexican consulate of this city is

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established, recruiting has been going on for some days, to engage men to go to Vera Cruz to serve in arms in Maximilian's army. That I know this from various individuals who enlisted for that purpose, who told me they had received twenty dollars, with the promise of a free passage to Vera Cruz, and the pay of one dollar per day, from the time they land in Mexico; and I also know certainly that two lots of men thus recruited have left this port for Vera Cruz, one in the steamer Paris and the other in the steamer Solent, all of which is public and well known in this city, and many persons can testify to it.

Yours, &c.,

R. DE ZAYAS.

Señor Don ANTONIO HOFFMANN,
Commercial Agent of Mexico—Present.

HAVANA, *April* 3, 1867.

On this day appeared Don Rafael de Zayas in this commercial agency, at the request of the undersigned, for the purpose of attesting his signature, which he does in the presence of the undersigned witnesses.

A. HOFFMANN Y URQUIA.
Commercial Agent of the Mexican Republic.
R. DE ZAYAS.

Then follows a seal which says:
Commercial agency of the Mexican republic, Havana.

Attest:

G. M. ISLAS,
JOSÉ VALENTE BAZ.

WASHINGTON, *April* 13, 1867.

A true copy:

IGNO. MARISCAL, *Secretary.*

No. 6.

[From the New York Herald, April 12, 1867.]

VERA CRUZ, *March* 27, 1867.

The siege of Vera Cruz is still in progress, and we are getting anxious for some determinative action on the part of the contending forces.

* * * * * *

The Spanish steamer, which arrived from Havana to-day, brought thirty artillerists, who have been placed at the guns upon the walls of the city and in the forts. It is stated that they came as passengers, but well understood that they were recruited in Havana for service here in the imperial army, under such inducements as are usually offered in similar cases. Seventy or more are expected by the English steamer from Havana, now due. This will make a valuable addition to the garrison, especially as their own people cannot be trusted, and the officers well know it. Only a night since forty-five men, with arms and ammunition, deserted and went to the liberal forces, by slipping over the wall, and the most stringent regulations are in force to prevent too frequent repetitions.

* * * * * *

VERA CRUZ, *March* 30, 1867.

Affairs here remain unchanged. The siege of Vera Cruz is still in progress with but little prospect of its speedy termination.

* * * * * *

Those who are not interested here in the empire are anxious to know what view the United States will take of the enlistment of men for the empire in Ha-

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vana. As stated in a previous letter the first instalment has arrived, and the English steamer from Havana, now due, is expected to bring more. Spain cannot protest if the United States allow enlistments for the liberal army, or the fitting out of privateers under the same flag, from the capture of the imperial gunboat Tabasco.

* * * * * *

Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, May 14, 1867.

SIR: I have the honor to acknowledge the receipt of your note of the 13th of last month, containing a copy of a communication addressed to you by the commercial agent of Mexico at Havana, relative to certain enlistments in the island of Cuba of Spanish soldiers, whose term of service has expired, for the armies opposed to the constitution government of Mexico, for which be pleased to accept my thanks.

I avail myself of this opportunity to renew the assurance of my high consideration.

WILLIAM H. SEWARD.

Señor Don MATIAS ROMERO, *&c., &c., &c.*

No. 5.

BOUNDARY QUESTION.

Mr. Romero to Mr. Seward.

[Translation.]

MEXICAN LEGATION TO THE UNITED STATES OF AMERICA,
Washington, January 9, 1867.

MY DEAR SIR: In observance of the charge I took on myself in our conversation to-day, I have the honor to send you copy of communication number 538, which Mr. Lerdo de Tejada addressed to me on the 5th of last month, about the change of the channel of the Rio Grande, no the boundary between Mexico and the United States, and likewise of the annexed document which accompanied it.

I remain, Mr. Secretary, your very respectful and faithful servant,

M. ROMERO.

Hon. W. H. SEWARD, *&c., &c., &c.*

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS AND GOVERNMENT—SECTION OF RELATIONS—BUREAU OF AMERICA, NUMBER 538.—CHANGES OF THE CHANNEL OF THER IO GRANDE ON THE DIVISIONAL LINE BETWEEN MEXICO AND THE UNITED STATES.

CHIHUAHUA, *December* 5, 1866.

I send to you annexed copy of a communication which the governor of the State of Chihuahua addressed to me the 31st October last, transcribing another from the political chief of the district of Brazos, dated 17th of the same month,

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about the evidence there should be in the archives of that legation respecting the manner of proceeding of the boundary commission, and of what is stipulated in article 5th of the treaty of the 2d February, 1848, on the permanence of the dividing line between the two republics, which was not altered by article 1st of the later treaty of 30th December, 1853, in what relates to the present case.

Although the imperceptible changes caused by alluvion on the banks of the Rio Grande could not be considered, it is not possible to pass without notice the visible and important changes caused by the force of the stream. It appears to be founded in justice, and by the stipulations of the treaty, that in respect of the noticeable portions of land which became fixed on the opposite shore by the force of the river, the eminent domain of the nation to which they belonged, and the private rights which there should be existent over them, should continue.

If that government admits these principles, and in conformity therewith is disposed to give instructions to the functionaries of the United States in the districts of the dividing line, it seems it would not be necessary to do anything more at present; but, in the contrary event, your excellency will please to communicate to me what may be the principles of that government in this particular, in order that what should be proper might be done in respect of cases which already have occurred, and which may easily continue to occur from the nature of the soil through which the Rio Grande flows.

I assure you of my respectful consideration.

LERDO DE TEJADA.

Citizen MATIAS ROMERO,
Envoy Extraordinary and Minister Plenipotentiary of the Mexican Republic at Washington.

WASHINGTON, *January* 9, 1867.

A copy:

IGNO. MARISCAL, *Secretary.*

No. 24.

[Translation.]

MEXICAN REPUBLIC—SUPREME GOVERNMENT OF THE STATE OF CHIHUAHUA.

CHIHUAHUA, *October* 31, 1866.

The governor of Chihuahua transcribes a communication from the prefecture of Brazos relative to the difficulties which are presenting themselves by reason of the main channel of the Rio Bravo on its immediate bank at the Villa del Paso.

The political chief and military commander of the district of Brazos, in despatch No. 113 dated 17th instant, says to the secretary of the government in my care, what I copy to the letter:

"Since the year 1852, when the boundaries were marked which in the future should divide our republic from that of the United States along all this frontier, the deepest channel of the river at the time when those boundaries were marked was designated as the dividing line, and to fix them, the joint commission of boundaries, having in view the changeableness of the current of the river, owing to the character of the soil which constitutes its bed, made provision for designating that topographically and astronomically, for which purpose a multitude of astronomical observations throughout the whole extent were made by the two commissions, and mainly by the Mexican, which gave the situations in longitude and latitude of old Picacho, the initial point, Morleros, El Paso, San Elizario, Presidio Viejo, Presidio del Norte, San Carlos, &c., solely for the purpose of connecting those points with the deepest channel of the river at that period, that it might serve, as I have said, as a perpetual boundary between both republics.

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"The shifting nature of the soil through which the river runs has caused, in course of time, a change in currents in different parts, and more notably below San Elizario, where it has left all the woodlands which belong to that town on this side, and in this villa, in the partido of the chamizal, where it has carried away more than fifteen hundred varas, which before that were owned by individuals, and now are slashes, sandy and ridged, which, as previously stated, ought to belong to El Paso; but the chief people in Franklin defend this land as theirs, as they also defend in other places what the river has left on this side, as is the case at San Elizario. We respect their woodlands, which the river has left on the right side, (and they also defend them,) because we are convinced that they belong to them; but they neither respect nor recognize as ours the soil which the same river has taken from us and left on the left front at Franklin.

"To-day it threatens us, and perhaps at the beginning of the year, or earlier, will divide El Paso, and the greater portion of the town will be on the left bank. In such case, will the part which remains on the left bank belong to the United States? Should it be that the same river should return to its ancient channel—that which it held in 1850—and leave on the right the towns of Ysleta, Socorro, and San Elizario, in such case, will these settlements belong to Mexico?

"For these reasons this prefecture, considering the evils that the river may cause to this settlement, has arranged to clear a canal in the land which before was on the right, and now is on the left of the river in front of this town, to see if it would be possible to make it change its course, and place it at a distance from the settlement by causing it to take another channel more distant from it, although it should be on the same ground; but the authorities at Franklin don't allow this, because they say it is already private property, and because they have divided it up to various settlers, while we cannot cut a stick in their woods that the river has left on this side without their seizing our drays and oxen and making us pay heavy fines.

"This prefecture, sir, places these facts in the knowledge of the government through your worthy hands, that it may please inform the President of the republic, and do what he may think proper in the case, for it may doubtless happen that if the river does not take to its old channel, it will divide El Paso, and, as is very probable, may end in destroying that town. Please accept the assurances of my esteem and distinguished consideration."

I have the honor to transcribe this for you, sir, that you may please agree with the President of the republic on the most proper solution of the important matter of which the prefecture of Brazos treats.

LUIS TENAGAS.

To the CITIZEN MINISTER
of Foreign Relations and Government, present.

CHIHUAHUA, *December* 5, 1866.

A copy:

JUAN VALDEZ, *First Officer.*

WASHINGTON, *January* 9, 1867.

A copy:

IGNO. MARISCAL, *Secretary.*

Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, February 5, 1867.

SIR: I have the honor to acknowledge the receipt of your note of the 9th ultimo, containing a copy of a communication addressed to you by Mr. de Te-

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jada relative to the change of the channel of the Rio Grande on the boundary between Mexico and the United States.

In reply I have the honor to state that the views of this government on the subject complained of are expressed in the opinion given on November 11, 1856, by the then Attorney General of the United States, a copy of which is herewith transmitted.

I avail myself of this occasion to renew to you the assurances of my most distinguished consideration.

WILLIAM H. SEWARD.

Señor Don M. ROMERO, &c., &c., &c.

Mr. Cushing to Mr. McClelland.

ATTORNEY GENERAL'S OFFICE,
November 11, 1856.

SIR: Your note of this date, communicating a clause in the draught of the proposed report of the commissioners for determining the boundary between the Mexican republic and the United States, presents the following question of public law: A portion of the boundary is formed by the Rio Bravo, which is subject to change its course in two ways, first, by gradual accretion of one of its banks, followed, in many cases, by correspondent degradation of the opposite bank; and secondly, by the more violent action of the water, leaving its actual bed and forcing for itself a new one in another direction. In case of any such changes in the bed of the river, does the boundary line shift with them, or does that line remain constant where the main course of the river ran as represented by the maps accompanying the report of the commissioners?

The response to this inquiry depends, in part, on the terms of the treaty between the two republics, prescribing the boundary line, the material part of which, in so far as regards the present question, is to the effect that the line "beginning in the gulf of Mexico, three leagues from land opposite the mouth of the Rio Grande," shall proceed thence "up the middle of that river" to a certain point. The treaty further provides that commissioners appointed by the two governments shall survey and mark out upon the land the stipulated line, which, as agreed upon and established by them, shall in all time be faithfully respected, without any variation therein, unless by express and free consent of both republics. (Treaty of December 30, 1853, 10 Stat. at Large, p. 1032.)

If the question here were of certain other parts of the boundary which are to run on parallels of latitude or by straight line from point to point, in that case the monuments placed by the commissioners, or the line as otherwise fixed by descriptive words referring to natural objects, or by the drawings and maps of the commissioners, would, it is plain, be conclusive in all time by force of the stipulations of the treaty. It would be the line agreed upon and established, even although it should afterwards prove that by reason of error of astronomical observations or of calculation it varied from the parallel of latitude where that was the line, or in the other part did not make exactly a straight line. So, if in another portion of the boundary which calls for the rivers Gila and Colorado, there were controversy concerning the identity of either, as upon the north-eastern boundary of the United States there once was in regard to the true St. Croix, then also, by force of the treaty, the determination of that point by the commissioners would be conclusive in all time.

But the present question is a different one, and depends in part for its solution upon other considerations.

In this case the boundary is not an astronomical or geographical line, but a natural object, defined by the treaty. And there is no equivocation here be-

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tween two distinct natural objects, each of them answering to the descriptive language of a stipulation. It is the Rio Bravo, with a course as definite and almost as destitute of tributaries and embranchments in its main course as the Nile. That is a fact which cannot be modified by surveys or reports.

However, the established principles of public law come in here to settle the question in all its relations.

The respective territories of the United States and of the Mexican republic are arcifinious—that is to say, territories separated not by a mathematical line, but by natural objects of indeterminate natural extension, which of themselves serve to *keep off* the public enemy. Such are mountains and rivers. (Barbeyrac's Grotius, liv. ii, chap 3, s. 16, and note; Coccéi Grotius, illustratus, *ibid.*)

When a river is the dividing limit of arcifinious territories, the natural changes to which itself is liable, or which its action may produce on the face of the country, give rise to various questions, according to the physical events which occur, and the previous relation of the river to the respective territories.

The most simple of all the original conditions of the inquiry is where the river appertains by convention equally to both countries, their rights being on either side to the *filum aquæ*, or middle of the channel of the stream. That is the present fact. With such conditions, whatever changes happen to either bank o the river by accretion on the one or degradation of the other—that is, by the gradual, and, as it were, insensible accession or abstraction of mere particles, the river, as it runs, continues to be the boundary.

One country may, in process of time, lose a little of its territory, and the other gain a little, but the territorial relations cannot be reversed by such imperceptible mutations in the course of the river.

The general aspect of things remains unchanged, And the convenience of allowing the river to retain its previous function, notwithstanding such insensible changes in its course, or in either of its banks, outweighs the inconveniences, even to the injured party, involved in a detriment, which, happening gradually, is inappreciable in the successive moments of its progression.

But, on the other hand, if, deserting its original bed, the river forces for itself a new channel in another direction, then the nation through whose territory the river thus breaks its way, suffers injury by the loss of territory greater than the benefit of retaining the natural river boundary, and that boundary remains in the middle of the deserted river bed. For, in truth, just as a stone pillar constitutes a boundary, not because it is a stone, but because of the place in which it stands, so a river is made the limit of nations, not because it is running water bearing a certain geographical name, but because it is water flowing in a given channel and within given banks, which are the real international boundary.

Such is the received rule of the law of nations on this point as laid down by all the writers of authority. (See ex. gr. Puffend., Jus. Nat., lib. iv, cap. 7, s ii; Gundling, Jus. Nat., p. 248; Wolff, Jus. Gentium, ss. 106, 109; Vattel, Droit des Gens, liv. i, chap. 22, ss. 268, 270; Stypmanni, Jus. Marit., cap. 5, ss. 476, 552; Rayneval, Droit de la Nature, tom. i, p. 307; Merlin Répertoire, ss. voc. alluv.)

I might multiply citations to this point from the books of public law; but, in order that either the United States or the Mexican republic, whichever in the lapse of time shall happen to be inconveniently affected by the application of this rule, may be fully reconciled thereto, it seems well to show that it is conformable to the common law of both countries.

I subjoin before doing this, as authority for Mexican jurists and statesmen, citations from the works on international law of the highest authority in Spain and Spanish America.

Don Antonio Riqueline states the doctrine as follows:

"When a river changes its course, directing its currents through the territory of one of the two conterminous states, the bed which it leaves dry remains the

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property of the state or states to which the river belonged, that being retained as the limit between the two nations, and the river enters so far into the exclusive dominion of the nation through whose territory it takes the new course.

"Nations must, of necessity, submit their rights to these great alterations which nature predisposes and consummates. * * * *

"But when the change is not total, but progressive only—that is to say, when the river does not abandon either state, but only gradually shifts its course by accretions—then it continues still to be the boundary, and the augmentation of territory which one country gains at the expense of the other is to be held by it as a new acquisition of property." (Derecho Internacional, tom. 1, p. 83.)

Don Andres Bello and Don José Maria de Pando both enunciate the doctrine in exactly the same words, namely:

"When a river or lake divides two territories, whether it belong in common to the conterminous riparian states, or they possess it by halves, or one of them occupies it exclusively, the rights which either has in the lake or river do not undergo any change by reason of alluvion.

"The lands insensibly invaded by the water are lost by one of the riparian states, and those which the water abandons on the opposite bank increase the domain of the other state. But if, by any natural accident, the water which separated the two states enters of a sudden into the territory of the other, it will thenceforth belong to the state whose soil it occupies, and the land, including the abandoned river channel or bed, will incur no change of master." (Bello, Derecho Internacional, p. 38; Pando, Derecho Internacional, p. 99.)

Almeda refers to the same point briefly, but in decisive terms. He says:

"As the river belongs to the two nations, so also the river bed, if by chance it become dry, is divided between them as proprietors. When the river changes its course, throwing itself on one of two conterminous states, it then comes to belong to the state through whose territory it runs, all community of right in it so far ceasing." (Derecho Publico, tom. 1, p. 199.)

Leaving authorities of this class, then, let us come to those which discuss the question in its relation to private rights, and as a doctrine of municipal jurisprudence.

The doctrine is transmitted to us from the laws of Rome. (Justinian, Inst., lib. ii, tit. i, ss. 20, 24: Dig. lib. xii, tit. i, l. 7; see J. Voet ad Pandect, tom. i, pp. 606, 607; Heinec, Recit. lib. ii, tit. 2, ss. 358, 369; Struvii Syntag, ex. 41, c. 33, 25; Bowyer's Civil Law, ch. 14.)

Don Alfonso transferred it from the civil law to the Partidas. (Partida, iii, tit. 28, l. 31,) Thus it came to be, as it still remains, an established element of the laws of Spain and of Mexico. (Alvarez, Instituciones, lib. 2, tit. 1, s. 6; Asso. Instituciones, p. 101; Gomez de la Serna, Elementos, lib. ii, tit. 4, sec. 3, No 2; Escriche, Dic. s. vocc. accesion natural, aluvion, avulsion; Febrero, Mexicano, tom. i, p. 161; Sala, Mexicano, ed. 1845, tom. ii, p. 62.)

The same doctrine, starting from the same point of departure, made its way through the channel of Bracton into the laws of England, and thence to the United States. (Bracton de Legg. Angliæ, lib. ii, cap. 2, fol. 9; Blacks. Comm., vol. ii, p. 262; Woolrych on Waters, p. 34; Angell on Water Courses, ch. 2; Lynch *v.* Allen, 4 De & Bat. N. C. R., p. 62; Murry *v.* Sermon, 1 Hawks., N. C. R., p. 56; The King *v.* Lord Scarborough, iii, B. & C., p. 91; S. C. ii, Bligh N. S., p. 147.) Such, beyond all possible controversy, is the public law of modern Europe and America, and such, also, is the municipal law both of the Mexican republic and the United States.

In my judgment, therefore, the tenor of the report of the commissioners, in the clause submitted to me for consideration, is in substance correct; and, if it need modification to give to it absolute exactness, that result will be accomplished by the insertion of some word or phrase which shall recognize the distinction which exists in law between gradual changes of a river course by insen-

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sible accretion, and changes happening through the absolute diversion of its course, effecting avulsion of land from one or the other territory, or striking out a partially new channel through the territory of one or the other, which it is suggested is subject to occur in some part of the course of the Rio Bravo.

I have the honor to be, very respectfully,

C. CUSHING.

Hon. ROBERT MCCLELLAND,
Secretary of the Interior.

Mr. Romero to Mr. Seward.

[Translation.]

MEXICAN LEGATION TO THE UNITED STATES OF AMERICA,
Washington, February 6, 1867.

Mr. SECRETARY: I have had the honor to receive the note you were pleased to address to me, dated yesterday, in reply to mine of the 9th of January last, with which I transmitted to the department copy of a communication from Mr. Lerdo de Tejada, minister for foreign relations of the Mexican republic, relative to the changes of the stream of the Rio Bravo on the boundary line between Mexico and the United States. With said note you sent me copy of the opinion given November 16, 1856, to the Department of the Interior, by the Hon. Caleb Cushing, at the time Attorney General of the United States, on the same subject, which opinion, you add, contains the principles which the government of the United States professes in this respect.

I have read that opinion with interest, and it has appeared to me that the principles enunciated therein are equitable and founded on the teachings of the most accredited expositors of international law. On this date I transmit to my government a copy thereof, and of your note which accompanies it.

In the opinion spoken of, the proper distinction is taken between the case of change of the stream of a river which serves as boundary between two states, whether gradual or by alluvion, without change in its general direction, and that in which such change occasioned by the force of the river be sudden and complete, and cause a change of current. In the first case it is considered that the actual reach of the river continues to form the divisional line, and that the land gained or lost on each bank is acquired or lost by the state to which the bank belongs which undergoes such changes; and in the second case, that the divisional line cannot follow the new stream, but continues along the abandoned one which the river followed before the violent mutation.

It pertains to the government of Mexico to express its conformity to or dissent from these principles. Until I receive its instructions on this point, which I will duly communicate to you, I hesitate not to adopt them, meanwhile, as reasonable and equitable. As the case about which the government of the State of Chihuahua complained, and which I submitted to you with my cited note of the 9th January last, is partially decided by the opinion of Mr. Cushing, I take the liberty to beg you that the document may be officially communicated to the authorities of the United States at Franklin, Texas, and chiefly to the military commanders at Fort Bliss, in the same State, so that they may regulate their proceedings thereby; because, you will remember, in the above-mentioned case, while they considered as property of the United States the portions of Mexican territory which the change of stream of the Rio Bravo has left on the left side, they do not permit the Mexican authorities to consider as Mexican territory that acquired on the same principle, which makes an inequality so marked that the Mexican government had resolved to request that of the United States for an

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exposition of the principles it wished to observe, that such might be equally applied to both sides.

The opinion of the 16th November, 1856, solves, in the same sense, the question of the several rights that individuals have to property in the lands which the change in the river leaves on one or other of its banks; in which point, also, the United States authorities have not acted with equality in Franklin and at Fort Bliss. Nevertheless, I do not doubt that when they receive this opinion they will conform their procedure to it.

This occasion is very satisfactory to me to renew to you, Mr. Secretary, the assurances of my very distinguished consideration.

M. ROMERO.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, February 25, 1867.

SIR: Referring to your note of the 9th ultimo, on the question of boundary between the United States and Mexico, and to the reply of this department of the 5th, and the observations on the same, contained in your note of the 6th instant, I have the honor to inform you that a copy of the whole correspondence has been sent to the Secretary of War for his consideration.

I avail myself of this occasion to renew to you the assurance of my high consideration.

WILLIAM H. SEWARD.

Señor Don MATIAS ROMERO, &c., &c., &c.,
Washington, D. C.

Mr. Seward to Mr. Stanton.

DEPARTMENT OF STATE,
Washington, February 18, 1867.

SIR: I have the honor to transmit to you for your consideration a copy of a note, dated the 9th instant, which has been received at this department from the Mexican minister, and of the correspondence which preceded it, on the subject of a question of boundary which has arisen between this country and Mexico.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

Hon. E. M. STANTON,
Secretary of War.

No. 6.

STEAMER WILDERNESS.

Mrs. Juarez to Mr. Seward.

MEXICAN LEGATION,
Washington, June 17, 1867.

MY DEAR Mr. SEWARD: Mr. Romero duly informed me of the kind offer you had the goodness of making to him on the 10th instant, expressing your disposition to have a United States steamer at my disposal to carry me and my family to Mexico. I would prefer to take the ordinary way for passengers, with a view to avoid giving you any trouble, were it possible to do so. But the pres-

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ent circumstances are such that I do not think I could conveniently go to Vera Cruz, which is the shortest and most pleasant way, should I not avail myself of your very kind offer.

I beg you will allow me to express my sincere thanks for your delicate attention in facilitating my return home; and to inform you that I will be ready to sail, either from New York or New Orleans, whenever it may be convenient to have the steamer ready. All the time I shall need will only be the necessary days to reach with my family the place from which we should start.

While renewing to you my thanks for this favor, I remain, my dear Mr. Seward, most truly yours,

MAGARITA MAZA DE JUAREZ.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

Mr. F. W. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, June 24, 1867.

SIR: I have the honor to enclose, for your information, copy of a communication received at this department from the Hon. Hugh McCulloch, Secretary of the Treasury, in relation to furnishing passage on board the revenue cutter Wilderness to the wife of President Juarez, of Mexico, from New Orleans to Vera Cruz.

I avail myself of this opportunity to renew the assurances of my very distinguished consideration.

F. W. SEWARD,
Assistant Secretary.

Señor Don MATIAS ROMERO, &c., &c., &c.,
Washington, D. C.

Mr. McCulloch to Mr. Seward.

TREASURY DEPARTMENT, *June* 22, 1867.

SIR: I have the honor to acknowledge the receipt of your letter of 20th instant, requesting that the wife of President Juarez, of Mexico, be provided with a passage from New Orleans to Vera Cruz on board the revenue cutter Wilderness, and to inform you that this department will be gratified to acquiesce in your wishes, whenever the time shall be indicated at which Madam Juarez shall reach New Orleans and be prepared to embark. The necessary instructions will be given Collector Kellogg, at New Orleans, to have the Wilderness put in readiness. * * * * * * * *

I am, very respectfully,

HUGH McCULLOCH,
Secretary of the Treasury.

Hon. W. H. SEWARD,
Secretary of State.

Mr. Romero to Mr. F. W. Seward.

[Translation.]

MEXICAN LEGATION IN THE UNITED STATES OF AMERICA,
Washington, June 25, 1867.

Mr. ASSISTANT SECRETARY OF STATE: I have the honor to acknowledge the receipt of the note which you were pleased to address to me, of yesterday's

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date, enclosing me a copy of a communication from Hon. Hugh McCulloch, Secretary of the Treasury, of the 22d, in relation to the steamer which has been placed at the disposal of the wife of President Juarez, for the purpose of conveying her from New Orleans to Vera Cruz.

I have this day communicated your note, referred to, to Mrs. Juarez, and the document annexed thereto, and she requests me to express her thanks to you for the attention which you have shown in transmitting to her the letter of the Secretary of the Treasury, and to inform you that in the course of the week she expects to set off for New Orleans.

I avail myself of this opportunity to renew to you, sir, the assurances of my distinguished consideration.

M. ROMERO.

F. W. SEWARD, Esq., &c., &c., &c.

Mr. Romero to Mr. Seward.

[Translation.]

WASHINGTON, *June* 26, 1867.

MY DEAR Mr. SEWARD: I have the honor to inform you that Mrs. Juarez came back last night to this city, with the rest of her family, and wishes to leave for New Orleans to-morrow, going by way of the Mississippi.

I enclose to you a list of the persons who form the family and suite of Mrs. Juarez.

I am, very sincerely, your obedient servant,

M. ROMERO.

FREDERICK W. SEWARD, Esq.

—

Mrs. Juarez; Mr. and Mrs. Santacilia and child; Miss Juarez; Miss Felicitas Juarez; Miss Soledad Juarez; two girls, Mrs. Juarez's daughters, fourteen years old; Master Benito Juarez; Mr. Rafael Zayas; Mr. José Romero; Joana Arce, servant; Maria Rivas, servant; Jebronio Arce, servant.

Mr. F. W. Seward to Mr. Romero.

DEPARTMENT OF STATE,
Washington, June 27, 1867.

SIR: I have the honor to acknowledge the receipt of your note of the 26th instant, accompanied by a list of the persons who propose to embark for Mexico in the revenue cutter Wilderness, at New Orleans. That list was at once communicated to the Secretary of the Treasury, who telegraphed the collector of customs at New Orleans on the subject. A copy of a letter from Mr. McCulloch, with the collector's answer, is herewith transmitted.

It is believed that the party may be made comfortable. No efforts for that purpose will be spared.

I avail myself of the occasion, sir, to offer to you a renewed assurance of my high consideration.

F. W. SEWARD.
Assistant Secretary.

Señor Don MATIAS ROMERO, &c., &c., &c.,
Washington, D. C.

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Mr. McCulloch to Mr. Seward.

TREASURY DEPARTMENT,
June 27, 1867.

SIR: In accordance with the verbal request of yesterday, I transmit herewith copy of despatch just received from Collector Kellogg at New Orleans. Señor Romero was at the office on yesterday, and desired to be informed of the result of despatch sent yesterday, from this department, to New Orleans. Should it be deemed necessary, I will thank you to cause a copy to be furnished that gentleman.

I am, very respectfully,

H. McCULLOCH,
Secretary of the Treasury.

Hon. F. W. SEWARD,
Acting Secretary of State.

[Telegram.]

NEW ORLEANS, *June* 26, 1867.

Hon. H. McCULLOCH:

Wilderness at Southwest Pass. If desired, get her ready for Vera Cruz by morning; only difficulty seems accommodations for so large a party. General Steedman, just in; has despatches for Mexico. Wishes to send the same by cutter, if going. Please answer.

W. P. KELLOGG, *Collector.*

Mr. Romero to Mr. F. W. Seward.

[Translation.]

MEXICAN LEGATION IN THE UNITED STATES OF AMERICA,
Washington, June 27, 1867.

Mr. ASSISTANT SECRETARY OF STATE: I received the note you have pleased to address to me to-day, enclosing to me copy of communication from the Treasury Department of this date, and of the telegram which accompanies it, in relation to the passage of La Señora Juarez and family, from New Orleans to Vera Cruz, on board the revenue cutter Wilderness.

I have communicated these documents to La Señora Juarez, who requests me to repeat to you the assurance of the gratitude with which she regards the efforts of the department to make her voyage convenient and pleasant.

Señora Juarez has determined to set off to-morrow, from this city, for Cincinnati, whence she will go by water to New Orleans. She does not think she can reach that point before the 6th of July next.

This opportunity is very satisfactory to me for renewing to you, sir, the assurances of my distinguished consideration.

M. ROMERO.

FREDERICK W. SEWARD, Esq., *&c., &c., &c.*

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MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

COMMUNICATING,

In compliance with a resolution of the Senate of March 20, 1867, correspondence relating to the exequatur of the consul of the Grand Duchy of Oldenburg residing at New York.

APRIL 2, 1867.—Read, ordered to lie on the table, and be printed.

To the Senate of the United States:

I transmit to the Senate, in answer to their resolution of the 20th instant, a report from the Secretary of State, with accompanying documents.

ANDREW JOHNSON.

WASHINGTON, *March* 28, 1867.

DEPARTMENT OF STATE,
Washington, March 28, 1867.

The Secretary of State, to whom was referred the resolution of the Senate of the 20th instant, requesting the communication to that body, if in the President's opinion not incompatible with the public interest, "copies of any recent correspondence on the files of the Department of State relating to the exequatur of the consul of the Grand Duchy of Oldenburg residing at New York," has the honor to lay before the President a copy of the correspondence referred to, of which a list is herewith annexed.

WILLIAM H. SEWARD.

The PRESIDENT.

List of papers.

Messrs. Torrance, Spaulding & Richardson to Mr. Seward. June 23, 1866.
Mr. F. W. Seward to Messrs. Torrance, Spaulding & Richardson.....June 25, 1866.
Mr. F. W. Seward to Mr. Janssen.....October 5, 1866.
Mr. Janssen to Mr. F. W. Seward.....October 10, 1866.
Mr. King to Mr. Hunter, (with enclosures).....December 22, 1866.
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Mr. Lapaugh to Mr. Seward.....December 31, 1866.
Mr. King to Mr. Seward, (with enclosures).....January 4, 1867.
Mr. King to Mr. Seward, (with enclosures).....January 8, 1867.
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Report of Mr. E. Peshine Smith, examiner of claims.....March 20, 1867.

Messrs. Torrance, Spaulding & Rickardson to Mr. Seward.

111 BROADWAY, NEW YORK,
January 23, 1866.

SIR: In an action which we have pending here in the supreme court of this State, commenced in December last, against Gerhard Janssen and others, for a debt on contract, he alleges that he is a consul for Oldenburg, and claims that the court has not jurisdiction for that reason.

It becomes important for us, therefore, to know when Mr. Janssen was appointed such consul, and also when he was recognized by the United States government. By giving us the above information you will confer a favor on

Your obedient servants,

TORRANCE, SPAULDING & RICHARDSON,
Attorneys, &c.

Hon. WILLIAM H. SEWARD,
Secretary of State.

P. S.—Leopold Schmidt as partner of Janssen.

Mr. F. W. Seward to Messrs. Torrance, Spaulding & Richardson.

DEPARTMENT OF STATE,
Washington, June 25, 1866.

GENTLEMEN: In answer to your letter of the 23d instant, I have to inform you that Gerhard Janssen was recognized as consul of Oldenburg at New York on the 22d March, 1866. His commission bears date 26th February, 1866.

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Leopold Schmidt was recognized as consul of Saxony in New York 3d May, 1866. His commission bears date 13th February, 1866.

I am, gentlemen, your obedient servant,

F. W. SEWARD,
Assistant Secretary.

Messrs. TORRANCE, SPAULDING & RICHARDSON,
Attorneys, &c., 111 *Broadway, New York City.*

Mr. F. W. Seward to Mr. Janssen.

DEPARTMENT OF STATE,
Washington, October 5, 1866.

SIR: This department has been informed that in an action pending in the supreme court in the State of New York, commenced in December last, against yourself and others, for a debt on contract, you have claimed that the court has no jurisdiction for the reason that you are a consul for Oldenburg. Should this statement prove to be true, I deem it proper to inform you that unless the alleged plea on your part be withdrawn, a recommendation will be made to the President which will render the plea of no effect.

I am, sir, your obedient servant,

F. W. SEWARD,
Acting Secretary.

GERHARD JANSSEN, Esq.,
Consul of Oldenburg, New York.

Mr. Janssen to Mr. F. W. Seward.

CONSULATE OF OLDENBURG,
New York, October 10, 1866.

SIR: I have the honor to acknowledge the receipt of your communication to me of the 5th instant, wherein it is stated in substance that your department has been informed that in an action pending in the supreme court of the State of New York, commenced in December last against me and others, I have claimed that the court has no jurisdiction, for the reason that I am a consul for Oldenburg, and that you deem it proper to inform me that unless the alleged plea on my part be withdrawn a recommendation will be made to the President which will render the plea of no effect.

In reply, I beg leave hereby to say that in no action pending in the court mentioned, commenced in December last against me and others, has the alleged plea been interposed on my part.

I am, sir, very respectfully, your obedient servant,

GERH. JANSSEN,
Consul of Oldenburg.

Hon. F. W. SEWARD,
Acting Secretary of State, Washington, D. C.

Mr. King to Mr. Hunter.

WASHINGTON, *December* 22, 1866.

DEAR SIR: I beg leave to invite your attention to the enclosed letter from Messrs. Spaulding & Richardson, and accompanying papers, from which it ap-

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pears that the consul of Oldenburg declined to answer the summons of court to attend and testify in the case of James Humphrey and others *vs.* Gerhard Janssen and others, availing himself of his assumed privilege, &c.

In your (private) note* of 5th October last to me you said: "The letter of Torrance & Richardson has been found, and we have written to the consul of Oldenburg at New York that unless he withdraws his plea of official privilege the President will be asked to withdraw his exequatur, which, of course, would invalidate the plea.

Please take such action as may be proper in the matter, and advise me thereof at your earliest convenience.

Very respectfully, &c.,

HORATIO KING.

Hon. WM. HUNTER,
Assistant Secretary of State, Washington.

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111 BROADWAY, NEW YORK,
December 21, 1866.

DEAR SIR: At the request of Mr. F. M. Bixby, we now hand you the enclosed papers in the Janssen suit, by which you will be enabled to show to the State Department, conclusively, that Janssen has actually claimed and used his privilege in our suit, and has thereby procured the dismissal of our proceedings to take his testimony. His testimony and inspection of his books is absolutely necessary to enable us to prepare for trial, as we have no other way of getting at the proceedings between his firm and their predecessors.

Mr. Janssen has never appeared in court in obedience to the order, but only by counsel. On the last hearing counsel produced his exequaturs: first, as vice-consul, dated in 1864, and, second, as consul, dated in 1866, and the affidavit of his attorney, (copy enclosed.)

Mr. Bixby requests that you will now, as quickly as can be, take the necessary steps with the department to get the action indicated in Mr. Hunter's letter to you of 5th October last, (enclosed.)

Please bear in mind that the statute in question (giving the privilege) extends to all suits which "affect" a consul, &c. So that it will be necessary, in order to relieve us effectually, to have the exequatur revoked of each member of his distinguished firm who happens to be a consul.

The firm is composed of Gerhard Janssen, (consul, Oldenburg,) Leopold W. Schmidt, (consul, Saxony,) William T. Williams, (uncertain,) H. E. Ruperti, (uncertain.)

Please remember this fact—the main trick in the defence—viz: They did not allege the fact of consulship in pleading, nor in any manner give us notice of it, allowing us to consume months of time, intending, if we should get a judgment, to render it of no effect by asserting this privilege to vacate our execution. They did assert it to avoid giving testimony.

Mr. Bixby expects to be in Washington in a few days after New Year's, and will attend to your charges for your services in this matter.

We trust very soon to hear a favorable report of results—one which will be useful to our mercantile community, as well as to our clients, and look well in a newspaper.

We are, very truly, yours,

SPAULDING & RICHARDSON,
Attorneys for Bixby & Co.

Hon. HORATIO KING.

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* Of this private note no copy was retained in the department.

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SUPREME COURT.

JAMES HUMPHREY *et al.*
vs.
GERHARD JANSSEN *et al.*

CITY AND COUNTY OF NEW YORK, *ss:*

William P. Richardson, being duly sworn, says that he is one of the attorneys for the plaintiffs in this action; that said action is pending and at issue in this court, and is brought to recover a claim of the plaintiffs against the defendants for storage of goods and disbursements amounting to $575 60 cents, and interest.

That from the pleadings and from the statement made to deponent by the plaintiffs of the case, deponent believes that an examination of the defendants, or of such of them as have personal knowledge of the facts relating to said claim, is necessary to enable the plaintiffs to prepare for the trial of this action, and that a summons or order should be granted for that purpose.

W. P. RICHARDSON.

Sworn before me this 23d day of February, 1866.

RICHARD C. BEAMISH,
Notary Public, N. Y. County.

A true copy of the original now on file:

WM. C. CONNER, *Clerk.*

SUPREME COURT.

By Hon. Daniel P. Ingraham, a justice of the supreme court.

JAMES HUMPHREY *et al.*
vs.
GERHARD JANSSEN *et al.*

You, Gerhard Janssen, are hereby summoned to appear and attend before me at the special term of the supreme court, at the chambers of said court at the City Hall in the city of New York, on Saturday, the 3d day of March, 1866, at 10 o'clock in the forenoon of that day, to be examined as a witness, and to give testimony, pursuant to the provisions of the 390th and 391st sections of the Code of Procedure, at the instance of the plaintiffs, in a cause pending in the said court between Francis M. Bixby and others as plaintiffs and yourself and others as defendants, and in case of your refusal to or failure to attend and testify, you will be liable to be punished as for a contempt, and your answer may be stricken out.

Witness my hand this 23d day of February, in the year 1866.

D. P. INGRAHAM, *Justice.*

A true copy of the original now on file:

WM. C. CONNER, *Clerk.*

STATE OF NEW YORK, *City and County of New York, ss:*

Henry D. Lapaugh of said city, being duly sworn, says that he is counsel for Gerhard Janssen, of the firm of Janssen, Schmidt & Ruperti.

Deponent further says that he knows of his own knowledge that for at least five years last past the said Gerhard Janssen has been respectively vice-consul and consul of Oldenburg at New York.

HENRY D. LAPAUGH.

Sworn to before me this 18th day of December, 1866.

GEO. B. G. ROSCHMIDT.

A true copy of the original on file:

WM. C. CONNER, *Clerk.*

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At a special term of the supreme court of the State of New York, held in and for the city and county of New York, at the City Hall in said city, on Tuesday, the 18th day of December, 1866.

Present, Hon. Daniel P. Ingraham, justice.

JAMES HUMPHREYS, *et al.*
against
GERHARD JANSSEN *et al.*

Ordered, This proceeding is dismissed, defendant claiming his privilege as consul for Oldenburg.

[L. S.] From the minutes:

WM. C. CONNER, *Clerk.*

Andrew Johnson, President of the United States of America, to all whom it may concern:

An exequatur, bearing date the twenty-second day of March, 1866, having been issued to Gerhard Janssen, recognizing him as consul of Oldenburg for New York, and declaring him free to exercise and enjoy such functions, powers, and privileges as are allowed to consuls by the law of nations, or by the laws of the United States and existing treaty stipulations between the government of Oldenburg and the United States, and the said Janssen having refused to appear in the supreme court of the State of New York to answer in a suit there pending against himself and others on the plea that he is a consular officer of Oldenburg, thus seeking to use his official position to defeat the ends of justice, it is deemed advisable that the said Gerhard Janssen should no longer be permitted to continue in the exercise of said functions, powers and privileges.

These are, therefore, to declare that I no longer recognize the said Gerhard Janssen as consul of Oldenburg for New York, and will not permit him to exercise or enjoy any of the functions, powers, or privileges allowed to consuls of that nation; and that I do hereby wholly revoke and annul the said exequatur heretofore given, and do declare the same to be absolutely null and void from this day forward.

In testimony whereof, I have caused these letters to be made patent and the seal of the United States of America to be hereunto affixed.

Given under my hand, at Washington, this twenty-sixth day of December, in the year of our Lord 1866, and of the independence of the United States of America the ninety-first.

[SEAL]

ANDREW JOHNSON.

By the President:

WILLIAM H. SEWARD,
Secretary of State.

Mr. Lapaugh to Mr. Seward.

WASHINGTON, D. C., *December* 31, 1866.

SIR: In relation to the case of Gerhard Janssen, esquire, whose exequatur, as consul of Oldenburg for New York, was, on the 26th instant, revoked by his Excellency the President of the United States, I have the honor, as counsel for Mr Janssen, hereby to submit that such revocation arose from a misunderstanding of the real facts of the case, which are as follows, namely:

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In the month of December, 1865, a suit was commenced in the supreme court of the State of New York by James Humphrey and Francis M. Bixby against Gerhard Janssen, William T. Williams, Leopold Schmidt, and H. A. Ruperti.

On the 9th of February following Mr. Janssen appeared in the suit by interposing a verified written plea or answer upon the merits only to the plaintiffs' complaint.

On the 23d of February the plaintiffs, through an *ex parte* application and without any notice whatever to Mr. Janssen, procured from Mr. Justice Ingraham an order requiring Mr. Janssen to appear in said court to be examined as a witness, and give evidence against himself before the trial of the action; said order further reciting that, in case of his refusal or failure to attend and testify, he would be liable to be punished for contempt, and his answer might be stricken out.

On the return day of the order Mr. Janssen did appear by me before the court for the purpose of arguing the question as to the right of the plaintiffs to obtain such an order; and yet, in view of the uniform decisions of all the courts of New York that the State courts have not and cannot acquire any jurisdiction as to a foreign consul in any action against him, even though he makes no objection, but expressly waives his consular privilege, since jurisdiction over foreign consuls here is exclusively vested in the United States courts, and also in view especially of the suggestion of the supreme court of New York previously made to me, that it was the duty of counsel representing foreign consuls, defendant to inform the State court, at the earliest practicable moment, of the existence of such consulship in any given case, I did not and could not well omit, before entering at large upon the argument of the motion aforesaid, to avail myself of the occasion respectfully to inform the court that Mr. Janssen was the vice-consul of Oldenburg.

Thereupon Mr. Justice Ingraham stated that the proper course for Mr. Janssen, under the circumstances, would be to move to dismiss the plaintiffs' action; to which I replied that it was not my wish to do so, but that I was willing, on behalf of Mr. Janssen, to have the cause tried upon its merits.

The court then directed the plaintiffs' motion to stand over to a future day, from which it was continued until the 18th of December, when it was finally dismissed by Justice Ingraham himself. As the counsel for Mr. Janssen, I had steadily declined from the beginning to make any motion to dismiss the plaintiffs' action.

In consideration of the foregoing explanation of the facts and law of the matter, it is to be hoped, as I hereby respectfully request, that the proclamation of his Excellency the President revoking the exequatur of Mr. Janssen may be recalled, and he be restored and recognized as the consul of Oldenburg at New York.

With assurance of high esteem, I have the honor to be your very obedient servant,

HENRY D. LAPAUGH, *New York.*

Hon. WILLIAM H. SEWARD,
Secretary of State of the United States.

Mr. King to Mr. Seward.

WASHINGTON, *January* 4, 1867.

SIR: I have the honor to acknowledge the receipt of your letter of the 3d instant, transmitting a copy of a letter addressed to you by Henry P. Lapaugh, esq., of New York, counsel for Mr. Gerhard Janssen, late consul of Oldenburg,

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relative to the case of James Humphrey and Francis M. Bixby against Janssen and others, and requesting such information or observations as may show that in that proceeding (the recent withdrawal of the exequatur of Mr. Janssen) no injustice was done to him.

In answer, I beg to state that your communication will be immediately forwarded to Messrs. Spaulding & Richardson, of New York, attorneys for Humphrey & Co., with request for such reply as they may be pleased to make. Meantime I desire to call your attention to the enclosed newspaper articles and statement received yesterday from them on the subject.

I have the honor to be, with great respect, your obedient servant,

HORATIO KING.

Hon. WILLIAM H. SEWARD,
Secretary of State.

The publication of the President's proclamation revoking the exequatur of Mr. Consul Janssen has stirred up the whole regiment of foreign consuls in this city, and leading newspapers of the city have been pressed into their service to call the reprobation of public opinion upon the temerity of the President in daring to invade their ancient prescriptive rights.

It appearing from one of Janssen's published communications that he will attempt to justify himself and induce the President to recant and reinstate him, and as, perhaps, a considerable pressure will be brought to bear to accomplish that end, we throw out a few suggestions which occurred to us which may enable you to oppose such efforts.

1st. It is evident that the statute in question deals with ministers, consuls, &c., as such, and looks at them only in their official capacity. As such, perhaps, it is well designed, and those officers, as representing in diverse forms the rights and interests of foreign powers, should receive all necessary consideration and protection from our government. But when they are merchants and traders, thus by their own acts and professions placing themselves on a level with other men, they throw off the public and representative character, which the statute contemplates, and should not, and we think *do not*, come within its provisions according to its true intent and meaning.

This is the only just and equal aspect of the statute, and any other would be antagonistic to the policy of our laws, which make all men equal in the presence of the law.

2d. This is evidently the view and construction of the State Department, as evidenced in the case of Rock River Bank *vs.* Hoffman, 22 How. Pr. R., and in their action in this case of Janssen.

3d. The construction given to the statute by our court of appeals is, that the privilege in question is not that of the consulate of his government, but the privilege of the government of the United States.

Then it is certainly competent for the United States, through its Executive, to waive or withdraw its privilege at pleasure, as much as it would be Janssen's right to exercise that right, if it were in fact his. No proper complaint can, therefore, be made when the government, in a proper case and to promote the regular administration of justice, withdraws this shield which has been extended, and leaves Mr. Janssen to be dealt with in the ordinary tribunal having jurisdiction of the contract in which he is sued.

4th. This supposed view of the State Department is further evidenced by the established policy of our government, in prohibiting its own consuls and other representatives in foreign countries from trading. The comity of nations does not require us to extend to the precinct of Oldenburg privileges for her representatives here which we do not ask for ours in her dominions.

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5th. Common honesty, equity, and fair dealing all demand that any man who comes into the mercantile community and buys and sells, gets credit, and acts generally as a private merchant, or business man, although he may also be invested with a public and official character, shall be, so far as his business transactions are concerned, treated as a private citizen, and be amenable to the same tribunals, and his transactions subject to the same rules as those, of other men. There can be no safety in trade otherwise; for as these consuls wear no uniform, badge, or insignia of office, they are in no way distinguishable from other citizens, and there is no way for our citizens to be protected in their dealings with them.

6th. As the privilege depends not upon the official character of the consul, or on the appointment and commission of this government, but on the voluntary recognition of his commission by our government, which recognition is based upon faith and confidence in his integrity and fitness to occupy the position, so it seems plain it is not only competent, but highly just and proper, that, upon evidence of any delinquency and of his unfitness thus made apparent, the voluntary action of the government should be recalled and the official connection cease to exist.

7th. This being then evidently the true construction of the statute and the just status of these consuls, and the State Department having adopted and repeatedly acted upon it, now to shut the impudent mouths of these foreign gentry, who howl because they are not permitted to hide under the wing of our government while they abuse the confidence of our citizens, it is eminently proper for Congress, by express enactment, to declare it the law, by providing that the privilege in question shall attach only to consuls, &c, as *such*, and that if they engage in trade, as to their private business they shall stand as private citizens.

8th. Conceding the power, the next question is as to the propriety of exercising it in the case of Janssen.

1. The department has satisfactory proof that he was abusing his position, using the privilege of the government to avoid the investigation of one of his private mercantile transactions by a State court of the highest grade.

2. That he had obtained credit by keeping the fact of his consulship out of sight, and had then refused to pay.

3. To still keep his official character concealed he had appeared and answered in the suit on the merits, (thus voluntarily submitting to the jurisdiction of the court,) and then denied it, and refused to obey its order, when required to give evidence in the suit.

4. That this man Janssen was never served with process, (one of his partners only was served,) but appeared voluntarily in the suit, no other partner appearing.

5. His answer denies, under oath, every allegation in the complaint, while now in his newspaper articles he admits nearly all of them. He leaves the plaintiffs merely to prove the rate of storage agreed upon, and the time stored. His printed statement of the amount of net sales, accompanied with the storage bill, viz: storage bill $575, net sales $164 17, together with the "European constituency," shows the amount of the defence.

The storage bill accrued, upon the rate agreed, by the negligence of the consul's firm in leaving a bulky article of low value almost a year (nine months) in store. To shield themselves from blame from their consignors, they conclude to contest this bill, and, therefore, after promising to pay until they got delivery of the goods, they then refused; and being sued, deny their connection with the property, their demand and receipt of it, their agreement to pay, the agreed rate of storage, and everything alleged by plaintiff, and then skulk under "the privilege" when we attempt to prove these facts by their books.

9th. This impudence is further developed by their reflections upon the State Department and the President for the action taken in revoking the exequatur.

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They brought, as we are informed by Mr. Prince, all the consuls in the city swarming into the editorial office of the Journal of Commerce, which they besieged the whole day on which the proclamation appeared, complaining loudly against the hostile action of their "craft," and the result is seen in the violent and vindictive editorial in that paper the next day, and in that of the Times the following day.

10th. This "consular privilege" is asked to be extended not to Mr. Janssen alone, but to three other partners as well, a large firm doing an extensive foreign business in this city. This fact aggravates the case, and is another reason for a modification of the statute as above referred to.

11th. All cause of special complaint in Janssen's case is removed by the fact that he had timely warning from the State Department that if he insisted on this use of privilege, his exequatur would be revoked. His persistence after fair warning has justly brought this trouble on his head.

12th. Janssen slanders and insults the government by alleging that its action was produced by the political influence of the plaintiffs.

No comment is necessary. He should never be allowed to hold any official relations to it again.

Very respectfully submitted:

SPAULDING & RICHARDSON,
Attorneys and Counsellors at Law, 111 *Broadway, New York.*

[From the Journal of Commerce.]

THE CASE OF CONSUL JANSSEN.

To the Editors of the Journal of Commerce:

From a proclamtion of the President of the United States, of the 25th instant, published in the evening journals here of Friday, we perceive that the President has revoked the exequatur of the Hon. Gerhard Janssen as consul of Oldenburg for New York, and that the ground for such revocation is alleged to consist in "the said Janssen having refused to appear in the supreme court of the State of New York, in a suit there pending against him and others, on the plea that he was the consul for Oldenburg."

Now, as the legal advisers of Mr. Janssen, we beg to say, through the medium of your journal, that there was not, either at or before the time of the issuing of the above-mentioned proclamation, pending in the supreme court of New York any suit against Mr. Janssen and others in which he refused to appear.

On the contrary, we know that Mr. Janssen, in the only suit pending in that court against him in any manner, offered by us to waive, so far as it could be done, his privilege as consul of Oldenburg, and to have the said suit tried upon its merits, which was refused by the opposite party.

And, finally, it is a fact that in the same suit the court decided that Mr. Janssen, being a foreign consul, could not by law be compelled to attend and be examined as a witness in the said court before the trial of the action.

The above suit is for the sum of $575 60 claimed for storage on 60 casks of muriate of potash, stored by the late firm of J. W. Schmidt & Co., in Humphrey & Co.'s bonded warehouses.

The successors of J. W. Schmidt & Co., Messrs Janssen, Schmidt & Ruperti, finding on delivery of the goods that the net proceeds of the same was only *gold* $164 24, and that at the same time another parcel of the same goods was stored at only *one-half* the rate charged by Humphrey & Co., thought it due to their constituents in Europe, for whose account they sold said goods, to contest the bill; not, however, without first tendering the amount, less $50, which Messrs. Humphrey & Co. had offered to deduct, *subject to the decision of the court.*

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Messrs. Humphrey & Co., on finding the decision of the case likely to go against them, had since offered to compromise, and finally resorted to their political influence in Washington to attack Mr. Janssen in his consular position, with the above result.

Such an attempt at *extrajudicial coercion* is certainly calculated to excite regret in the breast of every citizen.

We have the honor to be, very respectfully, yours,

FINCKE & LAPAUGH,
Counsellors at Law, 62 *Wall street.*

NEW YORK, *December* 29, 1866.

[From the Journal of Commerce.]

A WARNING TO MERCHANTS.—THE MARTYR CONSUL.

Messrs. Editors Journal of Commerce:

In your issue of Saturday, Messrs. Fincke and Lapaugh, counsel for Mr. Janssen, criticise the removal of Janssen from his consulate, and attempt to make him appear a martyr. The facts of the case are simply these: Janssen owing a bill to clients of ours and refusing to pay it, a suit was commenced in the supreme court to compel its payment. In a proceeding in the case to take testimony, before the trial, Janssen's counsel interposed the consular privilege of his client, and the proceedings were consequently dismissed. The facts of the case, together with a certified copy of the record, were sent to the honorable Secretary of State, and Janssen's exequatur was, therefore, very properly revoked on the ground that he was using his privilege to defeat the ends of justice. Messrs. Fincke and Lapaugh claim for Janssen that he wanted "to have said suit tried upon its merits, which was refused by the opposite party." This is incorrect. Why was the suit commenced, if not to be tried on its merits? If Mr. Janssen's consular privilege was interposed as a defence to the proceedings alluded to, who brought that fact before the court? Surely not the plaintiffs in the suit, for they were suing to recover the amount of their bill.

If Mr. Janssen wanted to try the case on its merits, why did he object to, and resist, the usual and regular course of proceedings in such cases?

It is not true that any offer was made to us to waive the consular privilege in any manner; but, to avoid an examination, Janssen's counsel proposed to agree upon issues to be tried. The consular privilege was not, and could not be, an issue in the case, because counsel had studiously avoided setting up in the answer the fact of his being a consul, thus keeping us in ignorance for months of this fact. The intention evidently was to allow plaintiffs to prosecute the case to judgment and execution, if they could succeed before a jury, and then, after all the delay which could be obtained in this way, to defeat justice by a motion to set aside execution on the ground of want of jurisdiction of the court under the authority of decisions in similar cases. This trick has fortunately been foreseen and justly defeated.

The State Department has, in this case, simply done justice on due presentation of the facts, and has followed a precedent established by it in a noted case occurring in our State supreme court some years since—(the Rock River Bank *vs.* Hoffman, reported in 22 Howard's Practice Reports.)

We are, respectfully, yours,

SPAULDING & RICHARDSON,
Counsellors-at-Law, Trinity Building, 111 *Broadway.*

NEW YORK, *December* 29, 1866.

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[From the Post.]

THE CASE OF MR. JANSSEN.

To the Editors of the Evening Post:

In various journals, the Evening Post included, Messrs. Fincke and Lapaugh publish a card in behalf of Gerhard Janssen, who has until recently acted as consul for Oldenburg, a German precinct of about the size and importance of Hoboken, New Jersey; and Mr. Janssen also appears in his own behalf.

Mr. Janssen had his exequatur revoked by the President, because he interposed as a defence his consular privilege in a legal proceeding in one of our courts. The facts of the case are simple.

A certain number of casks were stored with Humphrey & Co., at an agreed rate of storage. After remaining in store several months, they were withdrawn by Janssen, Schmidt & Ruperti, and the property was delivered to them on their promise to pay the bill. They failed to keep this promise after getting their goods, and Humphrey & Co. were compelled to place the bill in our hands for collection.

We did not know at the time that Janssen was Oldenburg's consul, and this fact was kept concealed from us for some months. In the course of time it became important to us to examine Janssen in some preliminary proceeding, and in this phase of the case Janssen interposed his consular privilege, and this proceeding was dismissed, not, however, without a sharp rebuke from Judge Ingraham.

The government having previously very properly revoked exequaturs for just such an abuse of its privilege as this, we forwarded to the State Department an official transcript of the proceedings and papers, and the President, following the line of precedent, deposed Mr. Janssen. No political influence was brought to bear to effect this result, nor was it necessary to employ any such agency. We sought justice, and we obtained it. The statements of Messrs. Fincke and Lapaugh "that Janssen did not plead his privilege;" that a "tender was made" for this bill; that "plaintiffs offered to compromise;" that our "clients feared the case would go against them," are each and all utterly untrue in fact. Nothing of the kind has ever occurred. No tender, no offer to compromise, no offer to waive privilege, have ever been made in the case, and we are at a loss to account for the impudence with which these bold statements are made.

Janssen's statements that he was deposed because his potash brought a low rate, or because he failed to pay a bill honestly due, are wholly incorrect. The offence for which Janssen was deposed was solely his abuse of the privilege granted him by the government; not, in fact, his privilege, but the privilege of the government of the United States, which it has the right to waive and withdraw at its pleasure—so held by our court of appeals.

Mr. Janssen now occupying the legal position of other plain citizens, the suit against Janssen, Schmidt & Ruperti for this storage bill will be continued, and Janssen's desire to litigate it on its merits, "in the interest of his European constituency," shall be gratified; only in the future proceedings Mr. Janssen will not perhaps use his consular privilege, a poor counterfeit of the baby act, to defeat the ends of justice.

Permit us to add: The partner served with the papers in the suit, Mr. Williams, is not a consul. Mr. Janssen, not served at all, has appeared for the express purpose of availing himself of this privilege, and thus shielding his firm from the payment of a just debt.

The amount of the claim is neither here nor there. The public are only interested with the question whether a consul who trades and gets credit among

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merchants shall or shall not be amenable to the same tribunals and subject to the same rules as other merchants.

We think that a little ventilation of this question will be wholesome.

Understanding the case, we do not think the community will go frantic over Mr. Janssen's removal, as the late consul and his counsel seem to anticipate.

We are, respectfully,

SPAULDING & RICHARDSON,
Attorneys for Humphrey & Co., 111 *Broadway.*

DECEMBER 31, 1866.

WASHINGTON, *January* 8, 1867.

SIR: Referring to my communication of the 4th instant, I have now the honor to submit the enclosed communication, addressed to you by Messrs. Spaulding & Richardson, and intended as a reply to the statement of Mr. Lapaugh, a copy of which you were so kind as to furnish for their information.

Should anything more be required in support of the late action of the President withdrawing Mr. Janssen's exequatur, I respectfully request that the consideration of the matter be postponed until next week, when Mr. F. M. Bixby, one of the parties in interest, will be present and prepared to confer with you personally on the subject.

I have the honor to be, with great respect, your obedient servant,

HORATIO KING.

Hon. W. H. SEWARD,
Secretary of State.

NEW YORK, *January* 7, 1867.

SIR: We have been kindly favored with a copy from your department of the communication of Mr. Henry D. Lapaugh, counsel for Gerhard Janssen in the suit of James Humphrey and Francis M. Bixby, stating that the facts of that case have been imperfectly represented to the Department of State, &c., and also with your letter to Hon. Horatio King, of 3d January instant, requesting "such information or observations as may show that" in withdrawing Mr. Janssen's exequatur, no injustice has been done to Mr. Janssen.

However true it may be that Mr. Lapaugh may have stated the facts as he remembers and understands them, we must take the liberty to say that in many respects he has failed to state them correctly, and by omissions of some facts has given a wrong coloring to facts which he has stated.

It will be necessary to go at some length into the history of the case, for which we crave your indulgence.

We beg leave to refer you to copies of the summons and complaint, and answer and notice of retainer, which we hand you herewith, and which will explain our statement.

On the 23d of February, 1865, the plaintiffs, keeping bonded warehouses, received in store sixty casks merchandise (under bond,) consigned to the firm of J. W. Schmidt & Co. of this city. At that time storage room was scarce and rates were high. A bargain was expressly made, and the rate of eighty cents per month, storage, and eighty cents labor, was agreed upon.

This fact defendants deny, and it must rest upon proof to be produced on trial.

Cartage, extra labor, &c., were paid, as usual, by the storekeepers.

On the 30th November, 1865, these goods were ordered out by the firm of Janssen, Schmidt & Ruperti, who produced a custom-house permit for them.

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The firm of J. W. Schmidt & Co. had been in the mean time dissolved by the death of J. W. Schmidt, esq., and Janssen, Schmidt & Ruperti became their successors, as appears by the published communication of Mr. Janssen and his counsel, in the New York Evening Post, dated December 29, 1866.

This fact, you will perceive, however, is denied by their sworn answer in the suit.

Upon the permit, and the special promise of Janssen's firm to pay the storage, the goods were delivered to and received by that firm.

The delivery and receipt of the goods is denied by the sworn answer, but admitted in their letter to the Post and other papers.

On receiving the goods they requested a reduction of the bill, on the ground of hardship, the goods being of small value and the rates being high.

The plaintiffs acceded to this request and promptly made a reduction of about twenty per cent., amounting to $120, about, and again presented the bill, when Mr. Janssen said he would pay no such bill, and defied the plaintiffs to sue him, whereupon this suit was commenced.

Neither the plaintiffs nor their attorneys had any knowledge that any member of defendants firm was a consul at the time of the commencement of this action, nor afterwards until it was brought to their knowledge as hereinafter stated.

The summons was served, December 28, 1865, on William T. Williams, one of the firm, who, it appears, is not a consul, and on no one else.

The same day Mr. Gerhard Janssen, a defendant not served, appeared voluntarily by attorneys, and demanded a copy of the complaint. There has been no other appearance since for any of the defendants.

The Code of Procedure regulating our practice provides for the examination of any adverse party in an action before trial, (Code, sections 390 and 391.) We found it necessary, in order to prepare for trial, to avail ourselves of this provision, as the answer denied everything, and it was necessary to learn the facts connected with the transfer of the goods from J. W. Schmidt & Co. to Janssen, Schmidt & Ruperti, which facts could be got at in no other way, as they were solely within the knowledge of defendants' firm.

We obtained and served on Mr. Janssen the proper order of court, directing him to appear and submit to examination, with a subpœna *duces tecum*, requiring him to produce his books, papers, &c.

He failed and refused to attend, but appeared by counsel, (Lapaugh,) who claimed that Mr. Janssen, being a consul, could not be compelled to appear and testify, and cited authorities showing want of jurisdiction of the court. The court, Ingraham, J., expressed a doubt whether, even if privileged as a consul, and the suit therefore brought in the wrong court, the consul could refuse to testify after having answered on the merits, and thus submitted to the jurisdiction.

Now, we call this a trap. He says he was willing to have the case tried on its merits—if he could beat us before a jury, well; if we beat him, then our judgment would be of no sort of value, for an execution upon it would be set aside and the judgment vacated upon a motion.

The counsel for all the consuls was well posted upon the authorities, and knew just how to play his cards to win in the long run.

Proof of his insincerity in saying he was willing to try the case on its merits in the supreme court (State) is seen in this. He objected to and resisted the regular and usual course of practice in that court. The merits and the means of proving the merits were exactly what we were trying to get at by examining Janssen and his books.

It turns out by their newspaper articles that they were the successors of J. W. Schmidt & Co., and the goods were a consignment from European constituents (!) which came into their hands on the dissolution of the old firm, a fact which they denied, under oath, in their answer, and which we could only

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prove from them or their books. The above, with other facts, we expected to get out by the examination.

We were entitled to this examination as a matter of strict right, under the provisions of the code, and on an *ex parte* application.

2. Mr. Lapaugh attempts to impose upon you when he insinuates, by saying it was *ex parte*, that we obtained the order by any unfair or unusual means. No notice is required, and none is ever given, in such cases.

3. The order served was in the form approved by our courts, and did contain, as usual, the clause that, in case of failure or refusal to attend and testify, he would be liable to be punished for contempt, and his answer might be stricken out.

To which notice, coming from a very respectable court, Mr. Janssen appears to have paid very slight respect.

4. Mr. Lapaugh's statement that, "on the return of the order I did not and could not omit, &c., to inform the court that Mr. J. was vice-consul of Oldenburg," is too much compressed. It took him about four months to inform the court, or us, of the vice-consulship.

And it was only on learning from your office of the date of his consulship, and when, with a brief showing jurisdiction gained before that date, we attended to support our proceedings, that we heard of the vice-consulship.

The trick of the trap was developed, step by step. When counsel found that we knew the date of the consular commission and recognition, and were ready to show jurisdiction by a prior commencement of the suit, then they let out the fact of the vice-consulship.

5. Mr. Lapaugh's statement that he "had steadily declined from the first to make any motion to dismiss the plaintiffs' action," is more than untrue, for it is an attempt, without the audacity to say so directly, to carry the impression that such a suggestion was frequently made and as often refused by him.

Not a word has passed on the subject of such a motion since the suggestion of Judge Ingraham, on the first hearing, as above stated.

Now, the question is, has injustice been done to Mr. Janssen? It occurs to us that the fact of Mr. Janssen's curious entry into this State court, and inviting its jurisdiction over him, in a suit wherein he had not been served, and in which no individual judgment could be taken against him, is too significant a fact to be overlooked.

We must look for some adequate motive for this singular proceeding. We can find none but in the desire, as you have expressed it, to defeat the ends of justice; to shield his firm from the legal investigation of a very questionable mercantile transaction.

His expression, when the reduced bill was presented to him, and, on his refusal, he was told he would be sued, was, "Sue, and be damned."

This effrontery was born of his privilege, and in the consciousness of his immunity from the ordinary process of the courts. and—

But, said the judge, at any rate, this is not the proper way to raise the question. Your proper course is to move to dismiss the complaint for want of jurisdiction, and I will adjourn this proceeding two weeks to enable you to make that motion.

Mr. Lapaugh did not, as he states, decline to make such motion, and did not state any desire to try said action on its merits in the supreme court. He made no objection whatever to the suggestion of the judge. The judge noted the adjournment on the papers accordingly.

No motion was made to dismiss the complaint within those two weeks, or at any time since. The matter was afterwards repeatedly adjourned for convenience of counsel, until some time in June, 1866, when we wrote to you for information as to when Janssen was appointed consul and recognized. We received your reply, dated June 25, 1866, stating that "Janssen's commission bears date February 26, 1866. He was recognized March 22, 1866."

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(Please note: The suit was commenced December 28, 1865, and the order to appear and testify was made February 23, 1866.)

Finding that Janssen was not a consul when the suit was commenced, (nor even when the order was made and served,) and therefore that, by the decisions, the supreme court of this State *had* jurisdiction—Kappel *vs.* Hemrick, 1 Barbour's R., 449; Mollan *vs.* Torrance, 9 Wheat., 537, where the court say, "The general rule on the subject of jurisdiction is, that it depends on the state of things existing at the time the action is brought, and if the circumstances be such then as to vest jurisdiction, it cannot be ousted by any subsequent event," we prepared a brief, and on the next adjourned day insisted on the jurisdiction of the court, when it was stated by Mr. Lapaugh that Mr. Janssen was vice-consul prior to his appointment as consul, and that the same privilege attached to the vice-consul.

No proof having as yet been furnished of any appointment or recognition as consul or vice-consul, beyond the mere statement of counsel, another adjournment was had to enable him to produce proof, by affidavit or otherwise, of the fact, upon production of which, it was conceded, the proceeding must be dismissed.

After repeated adjournments this proof was produced, viz., the exequatur as consul and vice-consul, and the affidavit of Mr. Lapaugh which has been handed with the other record papers to your department, whereupon the proceeding was dismissed, it being conceded by us that under the decisions of our courts the consul could not be compelled to appear.

Finding, from the action of the Department of State, in the case of "the Rock River Bank *vs.* Hoffman," reported in 22d Howard's Pr. Rep., 250, that that department had adopted a more liberal construction of the statute, and had interfered, in the interest of justice, to prevent the abuse of the consular privilege; and finding also, in the case of Valerino *vs.* Thompson, (3 Selden, N. Y. R., pp. 576, 581,) that the privilege in question is not that of the consul, or of his government, but it is the privilege of the government of the United States; and considering that it was competent for the government, through its Executive, to waive or withdraw its privilege in any proper case, we forwarded copies of the record to your department, and requested your action for our relief, which was promptly granted by the revocation of Mr. Janssen's exequatur.

We beg leave to note that some weeks previously, on our representations, your department had notified Mr. Janssen, that if he insisted on his course the President would be asked to revoke his exequatur. Immediately upon the revocation Mr. Janssen and his counsel rushed into print and induced sundry editors to follow suit, assailing us, our clients, the State Department, and the President, in no measured terms, charging outrage, political influence, grasping power, centralization, &c., &c., and lastly come to your department asking for a revision. Such is a truthful statement of the facts.

Now, sir, please permit a few suggestions.

1st. Mr. Lapaugh makes a merit of not pleading the privilege of the consul and of not moving to dismiss the complaint, on the suggestion of Judge Ingraham.

The answer is, that he never said a word to inform us of consulship until an attempt to examine his books for evidence to sustain our case; when, to prevent this, he raised his privilege.

Knowing the facility of delaying justice in the federal courts, he was bold to defy us, and leave us the option of either taking what he chose to offer, or to wait the slow process of law.

We can see nothing in the letter of Mr. Lapaugh that shows injustice to Mr. Janssen; it admits in the fullest extent the charge made against his client. He refused to obey the mandate of a court, regularly and duly made in an action pending therein. He did so deliberately, and under advice of counsel. He did so, on the ground that it was his privilege, as a consul, to so refuse.

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He did thereby, *pro tanto*, defeat the ends of justice, for he caused the judicial dismissal of the proceeding. He studiously kept the fact of his consulship out of sight, and led the plaintiffs on, to waste their time and their money in a vain pursuit of legal redress, intending to spring his trap upon them in time to prevent any recovery upon the judgment, if any, when obtained.

The impudence of thus using the official dignity thrown around him by the courtesy of our government is only equalled by his audacity, in attributing the prompt remedial action of the State Department to political influence of Messrs. Humphrey & Co., and to the desire of the Secretary of State to grasp on all sides for power.

Referring you, respectfully, to some points already forwarded to Mr. King, and by him submitted to your consideration, we leave the matter in your hands, confident that your action, being, as it is, evidently based upon well-settled views of the subject long entertained and acted on in your department, will not be disturbed in the case of the consul of Oldenburg.

We are, respectfully, your obedient servants,

SPAULDING & RICHARDSON,
Attorneys and Counsel for Humphrey & Co.

Hon. WM. H. SEWARD,
Secretary of State, Washington, D. C.

SUPREME COURT.

JAMES HUMPHREY *et al.*, plaintiffs,
against
GERHARD JANSSEN *et al.*, defendants.
} Affidavit of service and complaint.

CITY AND COUNTY OF NEW YORK, *ss*:

Oliver H. Lowery, being duly sworn, says, that on the 28th day of December, 1865, at the city of New York, he served the annexed summons, together with the complaint therein mentioned, which is also hereunto annexed, on William T. Williams, defendant in this action, by delivering a copy of the same to such defendant personally, and leaving the same with him. He further says, that he knew the person served as aforesaid to be one of the persons mentioned and described in the said summons as the defendant in this action.

OLIVER H. LOWERY.

Sworn to before me this 5th day of December, 1865.

A. B. CHALMERS,
Notary Public, New York City, &c.

SUPREME COURT.

JAMES HUMPHREY *et al.*, plaintiffs,
against
GERHARD JANSSEN, WILLIAM T. WILLIAMS, LEOPOLD SCHMIDT, and H. E. RUPERTI, defendants.
} Summons for a money demand on contract.

To the defendants:

You are hereby summoned and required to answer the complaint in this action, which will be filed in the office of the clerk of this court, and to serve a copy of your answer to the said complaint on the subscribers at their office, No. 111 Broadway, in the city of New York, within twenty days after the service hereof, exclusive of the day of such service; and if you fail to answer

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the complaint within the time aforesaid, the plaintiffs in this action will take judgment against you for the sum of five hundred and seventy-five dollars and sixty cents, with interest from the 23d day of February, one thousand eight hundred and sixty five, on $62 60 thereof, and on $513 thereof from the 2d December, 1865, besides the costs of this action.

Dated December 28, 1865.

TORRANCE, SPAULDING & RICHARDSON,
Plaintiffs' Attorneys.

SUPERIOR COURT.

JAMES HUMPHREY and FRANCIS M. BIXBY
vs.
GERHARD JANSSEN, WILLIAM T. WILLIAMS, LEOPOLD SCHMIDT, and H. E. RUPERTI.

CITY AND COUNTY OF NEW YORK *ss:*

The plaintiffs complain and allege:

1. That they are, and were at the times hereinafter mentioned, copartners composing the firm of Humphrey & Co., and as such were and are engaged in the storage business, keeping bonded warehouses in the city of New York, and that the defendants are, and have been since some time prior to the 28th day of November, 1865, copartners composing the firm of Janssen, Schmidt & Ruperti.

2. That on or about the 23d of February, 1865, the plaintiffs received in the said warehouse for storage, from the firm of J. M. Schmidt & Co., sixty casks of merchandise, (the same being stored as bonded goods,) which the plaintiffs agreed to and did store, at the request of said firm of J. W. Schmidt & Co., at the rates then and there agreed upon between the plaintiffs and said J. W. Schmidt & Co., of eighty cents per cask per month, and eighty cents per cask for labor in receiving and turning out the same.

3. That on or about the 23d of February, 1865, the plaintiffs, at the request of said J. W. Schmidt & Co., and for their account and benefit, paid for cartage of said merchandise to said stores the sum of sixty-two dollars and thirty-five cents, and for revenue stamp the sum of twenty-five cents.

4. That while said merchandise was in plaintiffs' said stores, the plaintiffs, at the request of said J. W. Schmidt & Co., and for their account and benefit, paid out for extra labor in overhauling and moving said casks for coopering and repairing the same the sum of nine dollars.

5. That on or prior to the 28th day of November, 1865, and while said merchandise was still in the plaintiffs' stores as aforesaid, the defendants, as such firm of Janssen, Schmidt & Ruperti, succeeded to, purchased, or, in some manner to the plaintiffs unknown, received a transfer of, or became vested with the title or interest of said J. W. Schmidt & Co., in and to said merchandise, subject to the lien and claims of the plaintiffs thereon for storage and disbursements above mentioned, and which claims and lien the defendants, said firm, assumed and undertook to pay and discharge according to the terms of the agreement aforesaid.

6. That on the 30th November, 1865, the defendants, as such firm as aforesaid, applied to the plaintiffs to deliver said merchandise to them, claiming to own and to be entitled to receive the same, and producing then and there to the plaintiffs, as the authority for such demand and delivery, the permit of the custom-house of the port of New York directing such delivery to said firm of Janssen, Schmidt & Ruperti, and the defendants then and there acknowledged their liability to the plaintiffs for the said storage, cartage, labor, and expenses, and promised to pay the same on such delivery.

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7. That the plaintiffs thereupon, relying on said promise to pay, and in consideration thereof, delivered said merchandise to the defendants, and the defendants received the same, to wit, on or about the 2d of December, 1865.

8. That said merchandise remained in the plaintiffs' said stores nine and a half months, and that storage thereon at the rate aforesaid amounts to the sum of four hundred and fifty-six dollars; that labor on said sixty casks, at eighty cents each, amounts to the sum of forty-eight dollars.

9. That since said delivery the plaintiffs have frequently demanded of the defendants payment of said storage, cartage, labor, and expenses, but the defendants have not paid the same, and said several sums are now wholly unpaid and due to the plaintiffs from the said defendants.

Wherefore the plaintiffs demand judgment against the defendants for the sum of five hundred and seventy-five dollars and sixty cents, with interest on sixty-two dollars and sixty cents thereof from the 23d day of February, 1865, and on five hundred and thirteen dollars thereof from the 2d day of December, 1865, and the costs of this action.

TORRANCE, SPAULDING & RICHARDSON,
Plaintiffs' Attorneys.

CITY AND COUNTY OF NEW YORK, *ss:*

Francis M. Bixby, being duly sworn, says that he is one of the plaintiffs in this action; that he has read the foregoing complaint, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters stated on information and belief, and, as to those matters, that he believes it to true.

FRANCIS M. BIXBY.

Sworn before me this 13th day of January, 1866.

A. B. CHALMERS,
Notary Public for New York City, &c.

SUPREME COURT.

JAMES HUMPHREY and FRANCIS M. BIXBY
against
GERHARD JANSSEN, WILLIAM T. WILLIAMS, LEOPOLD SCHMIDT and H. E. RUPERTI.

CITY AND COUNTY OF NEW YORK:

Gerhard Janssen, one of the defendants impleaded in the above-entitled action, by Fincke & Lapaugh, his attorneys, answering the complaint of the plaintiffs in the said action, says:

1st. That he has not knowledge or information sufficient to form a belief whether the plaintiffs are or were, at the times mentioned in the said complaint, copartners composing the firm of Humphrey & Co., or, as such were and are engaged in the storage business, keeping bonded warehouses in the city of New York.

2d. This defendant, further answering, denies that on or about the 23d February, 1865, or at any other time, the plaintiffs received in their said alleged warehouses for storage, from the firm of J. W. Schmidt & Co., sixty casks of merchandise (the same being stored as bonded goods) or which the plaintiffs agreed to or did store, at the request of said firm of J. W. Schmidt & Co., at the rates of eighty cents per cask per month, or eighty cents per cask for labor in receiving or turning out the same.

And this defendant denies that it was then and there, or at any other time, agreed upon between the plaintiffs and said J. W. Schmidt & Co., that the said

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plaintiffs received or should receive in any warehouses for storage, from said J. W. Schmidt & Co., sixty casks of merchandise, at the rate of eighty cents per cask per month, and eighty cents per cask for labor in receiving and turning out the same or either.

3d. This defendant, further answering, denies that on or about the 23d February, 1865, or at any other time, the plaintiffs, at the request of said J. W. Schmidt & Co., or for their account or benefit, paid for cartage of said merchandise to said stores the sum of sixty-two dollars and thirty-five cents, or for revenue stamps, the sum of twenty-five cents.

4th. This defendant, further answering, denies that while said merchandise was in plaintiffs' said stores, the plaintiffs, at the request of J. W. Schmidt & Co., or for their account or benefit, paid out for extra labor, in overhauling and moving said casks for coopering or repairing the same, the sum of nine dollars.

5th. This defendant, further answering, denies that on or prior to the 28th day of November, 1865, or while said merchandise was still in the plaintiffs' stores, the defendants, as such firm of Janssen, Schmidt & Ruperti, succeeded to, purchased, or in some manner to the plaintiffs unknown, received a transfer of, or became vested with, the title or interest of J. W. Schmidt & Co. in and to said merchandise, subject to the lien or claims or to any lien or claims of the plaintiffs thereon for storage and disbursements, as averred in the plaintiffs' complaint, or that the defendants' said firm assumed or undertook to pay or discharge said alleged claims and lien, or either or any of them, either according to the terms of the agreement in that respect stated in said complaint, or any other agreement.

6th. This defendant, further answering, denies that on the 30th November, 1865, the defendants, as such firm as aforesaid, applied to the plaintiffs to deliver said merchandise to them, claiming to own or to be entitled to receive the same, and producing then and there to the plaintiffs, as the authority for such demand or delivery, the permit of the custom-house of the port of New York, directing such delivery to said firm of Janssen, Schmidt and Ruperti, or that the defendants then or there acknowledged their liability to the plaintiffs for the said storage, cartage, labor, or expenses, or promised to pay the same on such delivery.

7th. This defendant, further answering, denies that the plaintiffs thereupon, or at any other time, relying on said alleged, or any promise to pay, or in consideration thereof, delivered said merchandise to the defendants, or that said defendants ever, or at any time, made said alleged promise, or any promise.

8th. This defendant, further answering, says: That he has not knowledge or information sufficient to form a belief whether the said merchandise remained in the plaintiffs' said stores nine and a half months.

9th. This defendant, further answering, denies that said several sums mentioned in the complaint, or any of them, are now due to the plaintiffs from the said defendants.

FINCKE & LAPAUGH,
Attorneys for Defendant Janssen, 62 Wall street.

CITY AND COUNTY OF NEW YORK, *ss:*

Gerhard Janssen, being duly sworn, says that he is the defendant impleaded in this action; that the foregoing answer is true to his own knowledge, except as to the matters therein stated on information and belief, and as to these matters he believes it to be true.

GERHARD JANSSEN.

Sworn to before me this 19th day of February, 1866.

N. HILL FOWLER,
Commissioner of Deeds.

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SUPREME COURT.

JAMES HUMPHREY and FRANCIS M. BIXBY
against
GERHARD JANSSEN, WILLIAM T. WILLIAMS, LEOPOLD SCHMIDT and H. E. RUPERTI.

GENTS.: Please take notice that we are retained and appear as attorneys for Gerhard Janssen, one of the defendants impleaded in the above-entitled action, and that we hereby demand a copy of the plaintiffs' complaint in the same, to be served on us at our office, No. 62 Wall street, in the city of New York.

Dated, New York, December 28, 1865.

Yours,

FINCKE & LAPAUGH,
Attorneys for Defendant Janssen.

TORRANCE, SPAULDING & RICHARDSON,
Plaintiffs' Attorneys, 111 *Broadway, New York.*

Baron Gerolt to Mr. Seward.

PRUSSIAN LEGATION,
Washington, January 8, 1867.

SIR: In relation to the case of the consul of Oldenburg, Mr. Janssen, at New York, I take the liberty of presenting to your consideration the enclosed publication of Mr. Janssen's lawyers, Messrs. Fincke & Lapaugh, in answer to the argument of Messrs. Spaulding & Richardson, in which they pretend to justify their denunciation against the aforesaid consul.

I have the honor to be, sir, with the highest consideration, your obedient servant,

FR. VON GEROLT.

Hon. WILLIAM H. SEWARD,
Secretary of State of the United States,
Washington, D. C.

THE OLDENBURG CONSUL CASE.

To the Editor of the New York Times:

We notice in the Times of this morning a card from Messrs. Spaulding & Richardson wherein, after referring to the 28th of December, 1865, as the date of the commencement of the suit against Mr. Janssen and others, it is stated that he was not invested with the consular dignities of Oldenburg until the 22d day of March, 1866. In answer we beg to observe that, as early as the year 1856, Mr. Janssen was appointed vice-consul of Oldenburg at New York, and so recognized by the government of the United States; that he continued to be such vice-consul until the 22d of March, 1866, when, upon the death of Mr. John W. Schmidt, late consul general respectively of Prussia and Oldenburg, Mr. Janssen was promoted to the office of consul of Oldenburg at New York, and was so recognized by the United States. The incorrect statement of Messrs. Spaulding & Richardson, to which we have above alluded, is the more remarkable since Mr. Richardson, one of that firm, was not only informed by us in July last of the appointment of Mr. Janssen as vice-consul as well as

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consul of Oldenburg at New York, but that said Richardson was also, on the 18th of December last, shown by our Mr. Lapaugh the lettesr patent issued by the President of the United States for the time being, recognizing Mr. Janssen as such vice-consul and consul of Oldenburg.

Now that Messrs. Spaulding & Richardson have again forced themselves upon our attention, we improve the occasion by adding that in several of the daily journals of this city those gentlemen have put forth, from time to time, certain declarations in regard to the suit of Humphrey & Co. against Mr. Janssen and others, as follows, namely:

"We did not know at the time that Janssen was Oldenburg's consul, and this fact was concealed from us for months. The consular privilege was not and could not be an issue in the case because counsel had studiously avoided setting up in the answer the fact of his being a consul, thus keeping us in ignorance for months of this fact.

"The attention evidently was to allow the plaintiffs to prosecute the case to judgment and execution, if they could succeed before a jury, and then, after all the delay which could be obtained in this way, to defeat justice by a motion to set aside execution, on the ground of want of jurisdiction of the court, under the authority of decisions in similar cases; that one of the other parties, not a consul, was served with summons; that Janssen, not served, voluntarily appeared.

From the papers already published the position of Spaulding & Richardson is this—that is to say: First, they assert in substance that Mr. Janssen refused to appear, and concealed for months the fact of his consulship from them; secondly, that although he was not served with process in the suit, yet he did appear; and, finally, that they procured a revocation of Mr. Janssen's exequatur on the ground that the said Janssen had "refused to appear in a suit in the supreme court of the State of New York, to answer in a suit there pending against him and others, on the ground that he is a consular officer of Oldenburg." Of the merits of the questions involved this is not now the proper place to enter upon a discussion. Still we do not object to Messrs. Spaulding & Richardson advertising their business in the way they seem so anxious to do; yet we would simply remind them that it might be done to better advantage if they did not contradict their own statements in the same document subscribed by themselves.

We have the honor to remain, very respectfully, yours,

FINCKE & LAPAUGH,

Counsel for the Consulate at Oldenburg, No. 62 Wall street.

NEW YORK, *January* 4, 1867.

Mr. Seward to Baron Gerolt.

DEPARTMENT OF STATE,
Washington, January 9, 1867.

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, enclosing a printed copy of a letter of Messrs. Fincke & Lapaugh in answer to the argument of Messrs. Spaulding & Richardson, relative to the revocation of the exequatur of Mr. Janssen, late consul of Oldenburg at New York.

I am, sir, with high consideration, your obedient servant,

WILLIAM H. SEWARD.

Baron VON GEROLT, &c., &c., &c.

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Mr. Lapaugh to Mr. Janssen.

62 WALL STREET, NEW YORK,
January 11, 1867.

SIR: I beg hereby to state that in the course of my argument before the supreme court of the State of New York, yesterday, in opposition to the motion to compel the Hon. Leopold Schmidt, consul of Saxony, to attend to be examined as a witness in a case entitled Francis M. Bixby *et al.* against Gerhard Janssen *et al.*, I took occasion to call the personal attention of Messrs. Spaulding & Richardson, the paintiffs' attorneys therein, to the card, dated December 31, 1866, published over their joint names in the New York Daily Times, January 4, of this year, wherein, after referring to yourself, they use this language, namely:

"That on the 28th day of December, 1865, the date of the commencement of this suit against Mr. Janssen, he was plain Mr. Janssen, and was not invested with the consular dignities of Oldenburg until the 22d day of March, 1866."

And then remonstrating with those gentlemen against the entire incorrectness of the statement above quoted, I expressed to both of them that I was the more surprised at the publication of the same, inasmuch as I had not only in the month of March last communicated the existence of Mr. Janssen's consulship to Mr. Wm. P. Richardson, one of the members of the firm of said Spaulding & Richardson, but had also on the 18th of December, 1866, shown to said Richardson the exequaturs or letters patent issued by the President of the United States, for the time being, recognizing Mr. Janssen respectively as vice-consul of Oldenburg at New York, for several years continuously until the 22d of March, 1866, and on the said 22d of March and thenceforth as consul of Oldenburg at New York.

That the said Richardson thereupon, admitting that the existence of Mr. Janssen's consulship had been so communicated to him in March, and that the said exequaturs had been so shown to him by me on the said 18th of December, replied that the card herein above mentioned was written by his partner, the said Spaulding, and that he, said Richardson, had nothing to do with it whatever.

In conclusion, it may not be improper to add that the motion in respect to Mr. Consul Schmidt, being similar to the one which had already been unsuccessfully as well as illegally instituted against you by the same plaintiff, was promptly decided in his favor by the court.

I have the honor to remain, sir, very respectfully, yours,

HENRY D. LAPAUGH, *Counsellor.*

Hon. GERHARD JANSSEN,
Consul of Oldenburg, New York.

Mr. Seward to Mr. King.

DEPARTMENT OF STATE,
Washington, January 18, 1867.

SIR: I have to acknowledge the receipt of your letter of the 8th instant, transmitting a communication from Messrs. Spaulding & Richardson, relative to the withdrawal of Mr. Janssen's exequatur.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

HORATIO KING, Esq., *Washington, D. C.*

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Mr. Lapaugh to Baron Gerolt.

62 WALL STREET, NEW YORK,
January 18, 1867.

SIR: From a perusal of your private notes to Mr. Consul Janssen, respectively of the 2d and 3d of January instant, I observe that the State Department would not give a decision upon the motion to recall the revocation of the exequatur of Mr. Janssen until they receive the explanation of the lawyers on the other side, in reply to my report submitted through you to Mr. Secretary Seward.

To-day I am surprised to see, by your official letter to the consul of the 16th of this month, that, without any such explanation, Mr. Secretary Seward stated to you, "We don't want consuls who refuse to appear before our judges on account of their privileges;" which implication, that Mr. Janssen so refused, you very properly denied.

Considering the tortuous course pursued in the matter by the lawyers of the other side, we think it quite likely that, after having made the *suggestio falsi*, they may have availed themselves of a *suppressio veri* in omitting to render the explanation called for.

Being confident that Mr. Janssen is entirely correct, both as to the law and the fact, in the course of the action which he, as consul of Oldenburg, has felt it as his duty to pursue, and that any statement concerning the same made to the State Department could be successfully met, opportunity therefor being afforded, and regarding the necessities of commerce at the port of New York, I would now most respectfully request your excellency, if you deem it proper to do so, again to urge upon the honorable Secretary the importance and justice of restoring Mr. Janssen to the exercise of his rights and privileges as the consul of Oldenburg at New York, of which he was deprived evidently upon misinformation as to the case.

I have the honor to remain, very respectfully, your obedient servant,

HENRY D. LAPAUGH.

His Excellency Baron VON GEROLT,
Envoy Extraordinary and Minister Plenipotentiary
of Prussia, Washington, D. C.

Baron Gerolt to Mr. Lapaugh.

WASHINGTON, *January* 26, 1867.

SIR: I have received your letter of the 18th instant, and beg to say, in answer, that I have no authority to interfere officially in the question about the exequatur of the consul of Oldenburg; and having failed in my private exertions with the Secretary of State to obtain justice for Mr. Janssen, I wrote to the latter that he must make use of some other influence to obtain the revocation of the President's proclamation of the 26th December last, revoking the exequatur of Mr. Janssen.

I am, sir, very respectfully, your obedient servant,

FR. VON GEROLT.

H. D. LAPAUGH, Esq.,
62 Wall street, New York.

Mr. Lapaugh to Mr. Seward.

NEW YORK, *January* 31, 1867.

SIR: In the case of Gerhard Janssen, esq., I had the honor, as his counsel, on the first day of this month, to submit to you, by the hands of his excellency

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the Baron Von Gerolt, his Prussian Majesty's envoy extraordinary and minister plenipotentiary at Washington, an application for the recall of the proclamation of his Excellency the President of the United States revoking the exequatur of Mr. Janssen as the consul of Oldenburg at New York.

As no answer has, as yet, been received to that application, I beg hereby respectfully to renew the request for the granting of the same as an act of public justice, due not only to his Royal Highness the Grand Duke of Oldenburg, as well as to Mr. Janssen in his official character, but also due to him as an act of common justice with reference to the protection of his private interests in the only way that such protection is, under the Constitution and laws of this country, guaranteed to a foreign consul here.

Fully estimating, moreover, the vast importance of the international and legal question involved, I have deemed it compatible with my duty, on this occasion, to lay before you certain additional considerations bearing upon the case, which very likely might have been embodied in my former communication to you on the subject, but for the limited space of time allowed for the preparation of that paper.

By the Constitution of the United States (art. 3, § 2) it is ordained that "the judicial power of the United States shall extend to all cases affecting consuls;" and in pursuance of this organic law, it is enacted by the Congress of the United States (1 U. S. Statutes at Large, p. 76, § 9) "that the United States courts shall have jurisdiction, exclusively of the courts of the several States, of all suits against foreign consuls."

Conformably therewith, upon the request of the President of the United States for the opinion of the late United States Attorney General, the Hon. B. F. Butler, "as to the immunities of foreign consuls in the United States under the laws of nations and the Constitution and laws of the United States," the Attorney General, after careful consideration of the subject, replied, (2 Opinions, p. 725,) "that foreign consuls in the United States are entitled to the immunities of being sued and prosecuted exclusively in the United States courts, under the jurisdiction conferred on them by the Constitution and laws of the United States."

To the same effect is the opinion given in the case of the Spanish consul Villavaso, of the distinguished United States Attorney General Wirt, who therein states, (1 Opinions, p. 406,) "that our Constitution and laws, contemplating the responsibility of consuls to the jurisdiction of our courts, have provided the tribunals before which they may sue and be sued or prosecuted; these are the tribunals of the nation, before which alone, in exclusion of the State courts, consuls are bound to answer."

It has long since been settled that the exemption of consuls from the jurisdiction of the State courts is not his personal privilege, neither can it be waived by him, (Davis *vs.* Packend, 7 Peters's U. S. Rep., 276.)

The highest court of the State of New York has, likewise, adjudicated that such exemption is not the personal privilege of the consul nor of his government, and that it cannot be waived by his appearing in an action in the State court and pleading to the merits. (Valarino *vs.* Thompson, 3 Reed's N. Y. Rep., p. 576.) So absolutely are the State courts without any authority to exercise jurisdiction over foreign consuls, that the superior court of the city of New York determined (2 Duer's Rep., p. 658) "that it is the duty of a State court, whenever the fact that a defendant in a suit is a foreign consul is brought to its knowledge, to confess at once its want of jurisdiction, and to declare its proceedings to be void. Where the exercise of jurisdiction is a violation of law, and cannot be justified by the submission or consent of the parties, all the proceedings, as *coram non judice*, are wholly void.

As an instance of the utter want of competency in the State courts to afford a foreign consul in New York the benefit of the same laws and usages to which private citizens of the United States are entitled in the same place, permit me now

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to call your attention to the following striking practical illustration, namely: In July, 1858, in an action commenced in the supreme court of the State of New York, an injunction was granted in favor of one William G. Taaks, plaintiff, against the above-mentioned Gerhard Janssen, John W. Schmidt, Edward Von der Heydt, and others, defendants, restraining the defendants from interfering with certain personal property, amounting to some $10,000. The defendants all obeyed the injunction, by means of which the aforesaid property all passed into the possession of the plaintiff, who sold the same and received the proceeds thereof.

After a severe and protracted litigation of nearly two years, a decision was rendered in the action in favor of the defendants against the plaintiff. Thereupon the plaintiff suggested, by affidavits, to the court, that the defendants above named, and for whom my firm of Fincke & Lapaugh appeared as attorneys, were foreign consuls, and then moved the court upon that ground to be permitted to discontinue his said action without costs to himself, the plaintiff. That motion was opposed by me as counsel for the defendants, and in support of that opposition I submitted to the court, especially on behalf of the consuls, defendants, these two distinct points, viz:

1. That as the defendants had faithfully obeyed the injunction, and thereby been deprived of the property in suit, and the plaintiff had by virtue thereof succeeded in obtaining the same, he certainly ought to be estopped under the circumstances from objecting to the jurisdiction of the court on account of the consulship of any of the defendants.

2. That, as I offered, in open court, to waive and renounce on behalf of the consuls, defendants, all and every objection to the jurisdiction of the court arising out of such consulship, the defendants were all entitled to remain in court and invoke the benefit of the law, in like manner and upon the same terms as if none of them were consuls.

The court, however, decided otherwise, and held it had no alternative or discretion in the matter, but that the law was imperative that the State courts did not possess, and could not acquire, any jurisdiction over any foreign consul, either by his appearance, consent, waiver, or renunciation of any kind whatever.

Mr. Justice Leonard employed the following language in rendering the said decision:

"The defendants, John W. Schmidt, Gerhard Janssen, and Edward Von der Heydt, are each consuls of different foreign governments, accredited to this country, and by virtue of their office the plaintiff is barred from the right of maintaining any action against them in any State court. * * *

"The action must be dismissed, as to the three defendants who are consuls, without costs to either party as against the other."—(Taaks *vs.* Schmidt, 19 How. N. Y. Reports, p. 413.)

And, accordingly, Mr. Janssen, after a long and expensive litigation, resulting in his favor if allowed to stand, was, upon the sole ground of his consulship, at the instigation of the plaintiffs, summarily dismissed out of court with his own costs of $1,000, to be paid by himself, in addition to the loss of the property of which he and the other defendants had been wrongfully deprived by the action of the State court.

Looking, therefore, at the injurious and irremedial consequences inflicted on Mr. Janssen, in the instance just cited, and to the risk and repetition of which he is unavoidably exposed or subjected whenever he is prosecuted in any other than the national tribunals, and in the face, too, of the conclusive judgment of the supreme court of New York pronounced in the premises, it is difficult to suppose, certainly unreasonable to expect, that Mr. Janssen would, upon the institution in the same court of the suit of Humphrey *et al.* against him, do less than he did, namely, to bring to the attention of the court, by a verbal communication through me, the fact that he was the consul of Oldenburg at New

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York, and which communication, it may be here remarked, constitutes the only act on the part of Mr. Janssen done in the case in regard to the consulship; for, although the proclamation by the President, revoking the exequatur, alleges that Mr. Janssen "refused to appear in the supreme court of the State of New York to answer in a suit there pending against himself and others, on the plea that he is a consular officer of Oldenburg, thus seeking to use his official position to defeat the ends of justice," nevertheless, the truth is that Mr. Janssen did duly appear in that suit, by notice in writing, service of which was admitted in writing by the plaintiffs' attorneys, as early as the 31st of December, 1865; that Mr. Janssen did answer in that suit by a written plea, service of which was admitted in writing by the plaintiffs' attorneys on the 19th of February, 1866; that by such plea Mr. Janssen did not seek to use his official position to defeat the ends of justice; on the contrary, Mr. Janssen did not by his answer or plea in said suit take any objection to the jurisdiction of the court, but waived, so far as it could be possibly done under the laws of New York, every objection to the jurisdiction of the court.

Concerning the charge about defeating the ends of justice, it can be rightly imputed only to those who, in violation of all law, whether Union or State, prosecute a foreign consul in a State court, being a tribunal where the consul has no rights which that court is bound to respect, and where, for want of authority, the court could not, even if so disposed, award justice to a consul, however meritoriously he might be entitled to it, and which he would receive if a mere private citizen of the United States.

The idea that the President of the United States would use his high official position to coerce or keep a foreign representative in a court of law where he cannot be heard or is not entitled to be regarded as standing on equal footing with the private individuals of the United States, is not for a moment to be tolerated, especially when there is an existing court, namely, the United States court—a tribunul in which all the parties can, on the same terms, be equally recognized and have impartial justice administered to them respectively.

Now, Mr. Janssen, as consul, thus insisting upon the withdrawal of the revocation of his exequatur, of course, is careful not to anticipate or prejudice the action of his government in the matter. Yet, while leaving it to his government to adopt such measures as it may deem proper, he feels it incumbent upon him more particularly to have your attention directed to the serious question of principle here arising, whether the unilateral action of the President in revoking the exequatur is, after all, consistent or reconcilable with the express stipulations of the treaty between the two nations, by which the liberty is granted to his Royal Highness of having in the port of New York a consul *of his own appointment*, who shall enjoy the same privileges and powers as those of the most favored nations. This treaty being supreme law of the land, (United States Constitution, article 1, section 2,) and, as such, the President being required to take care that it be faithfully executed, I have hereby, on behalf of Mr. Consul Janssen, earnestly to insist that the exequatur granted to him as consul of Oldenburg is not liable to revocation at the mere option of the President, or without the consent of the government of Oldenburg.

It is laid down as one of the first axioms of the United States government that the President possesses no powers but those derived from the Constitution and laws of the United States; and these give him no authority to interfere in the case of Mr. Janssen, or to puuish him for a strict observance of the law of the country to which he is accredited.

Mr. Janssen has good reason, also, for complaint in this, that his exequatur was revoked not only without any just cause, but also without his having afforded to him an opportunity of being heard, and without being furnished with the name of the person on whose representation or motion the exequatur was so revoked. Had he been afforded an opportunity of being heard in the matter,

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Mr. Janssen is confident he could have satisfactorily shown that the representations of the informant were without foundation, and thus Mr. Janssen would have been able to sustain and justify his entire course.

While, therefore, the consul of Oldenburg at New York is quite ready to believe that the government of the United States acted, in the matter of revoking his exequatur, upon misinformation as to the facts, and under a misapprehension as to the law of the case, yet, in that circumstance, he finds only the stronger reason for calling upon the executive authority of the United States to withdraw the revocation, and to restore him to the full exercise and enjoyment of all the functions, powers, and privileges heretofore allowed him as consul of the nation of Oldenburg.

Not doubting that it will be the pleasure of the government of the United States to take early steps for repairing the injustice which it has inadvertently done Mr. Janssen, I have the honor to remain, sir, with assurance of the highest esteem, very respectfully, your obedient servant,

HENRY D. LAPAUGH, *Counsel, &c.*

Hon. WILLIAM H. SEWARD,
Secretary of State of the United States, Washington, D. C.

Report of E. Peshine Smith, examiner of claims.

DEPARTMENT OF STATE, BUREAU OF CLAIMS,
Washington, February 1, 1867.

To the Secretary of State:

In the matter of Gerhard Janssen, esquire, late consul of Oldenburg at New York, I find the fact admitted by the counsel for Mr. Janssen, in his letter of the 31st December, 1866, to the Secretary of State, that the fact of Mr. Janssen being a consul was stated by his counsel to a judge of the supreme court of New York, when opposing a motion made by the plaintiffs, in a suit in which Mr. Janssen was a defendant, for the examination of Janssen as a witness. The effect of this statement was that the order for his examination was denied. The counsel, however, declined, as he states, to make a motion for the dismissal of the plaintiffs' action, though the judge intimated the propriety of such a proceeding. The result is that the plaintiffs have been deprived of evidence which they deemed essential, by the assertion, in Mr. Janssen's behalf, of his consular character.

I understand Mr. Janssen's exequatur to have been revoked for the reason that, being engaged in business, he made use of his consular character to obtain exemption from giving testimony which would have been exacted from a private person.

I can see nothing in the subsequent representations in behalf of Mr. Janssen which brings into doubt the main fact upon which the revocation of his exequatur was grounded, nor anything in the circumstance of his being a party to the action to entitle him to any greater favor than if he had withheld his testimony in a suit between third persons.

E. PESHINE SMITH,
Examiner of Claims.

Mr. Seward to Mr. King.

DEPARTMENT OF STATE,
Washington, February 3, 1867.

SIR: I enclose a copy of a letter of the 31st ultimo, addressed to this department by Mr. Henry D. Lapaugh, of New York, the counsel of Mr. Gerhard

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Janssen, late consul of Oldenburg there, relative to the case of James Humphrey and Francis M. Bixby against Janssen and other members of the commercial house in which he is a partner. Mr. Lapaugh states that the facts of that case have been imperfectly represented to this department, and that if they had been properly understood the exequatur of Mr. Janssen would not have been withdrawn. I will thank you for such information or observations as may show that in that proceeding no injustice was done to Mr. Janssen.

I have the honor to be, sir, your obedient servant,

WILLIAM H. SEWARD.

Hon. HORATIO KING, *Washington.*

Mr. Lapaugh to Mr. Seward.

62 WALL STREET,
New York, February 9, 1867.

SIR: Last week I had the honor to transmit to you by mail a communication, dated the 31st ultimo, relative to the case of Gerhard Janssen, esquire, as consul of Oldenburg, and now I have respectfully to request you to inform me whether you have received that communication.

With assurance of high esteem, I remain, very respectfully, your obedient servant,

HENRY D. LAPAUGH,
Counsel to the Consulate of Oldenburg.

Hon. WILLIAM H. SEWARD,
Secretary of State of the United States, Washington, D. C.

Baron Gerolt to Mr. Seward.

[Translation.]

LEGATION OF PRUSSIA AT WASHINGTON,
February 13, 1867.

The undersigned, envoy extraordinary, and minister plenipotentiary of his Majesty the King of Prussia, has the honor to inform the honorable W. H. Seward, Secretary of State of the United States, that in virtue of the treaty of peace concluded between the kingdoms of Prussia and of Saxony, the 2d October, 1866, his Majesty the King of Saxony has conferred upon his Majesty the King of Prussia the diplomatic representation of the interests of his government and of his subjects near the governments of foreign countries where there is a Prussian legation, without there being a diplomatic representative of Saxony.

In conformity with this treaty the undersigned has been charged by his government to represent the interests of the government, and of the subjects of "Saxe Royale," in the same manner as those of Prussia.

According to these instructions the undersigned finds himself obliged to call the attention of the honorable Secretary of State to the statement hereto annexed, contained in the New York Herald of the 9th of this month, relative to the decision given by Judge Leonard, of the supreme court of the State of New York, on the immunities from jurisdiction which foreign consuls enjoy in the United States.

According to this statement, the consul general of the kingdom of Saxony, Mr. Leopold Schmidt, had been summoned before said court to be examined in a

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litigated affair. Mr. Schmidt's attorney having observed that the courts of justice of the State of New York had no jurisdiction over foreign consuls, in conformity with article 3, section 2, of the Constitution of the United States, and the judiciary act of 1789, Judge Leonard declared that he agreed in that opinion, which is also sustained by the following opinions of jurisconsults well known in the United States:

"The district courts shall also have jurisdiction, exclusively of the courts of the several States, of all suits against consuls or vice-consuls, except for offences above the description aforesaid."

Brightley's Digest, page 231, note. A State court has no jurisdiction of a suit against a consul, and whenever this defect of jurisdiction is suggested the court will quash the proceedings.

Manhardt *vs.* Soderstrom, 1 Biven, 138. Commonwealth *vs.* Rosloff, 55 and R. 545. This privilege is not a personal one, but that of the country or government which the consul represents.

Davis *vs.* Packard, 7 Peters, 284. By the proclamation of the President of the United States, of 26th December last, the exequatur was withdrawn from the consul of the Grand Duke of Oldenburg, Mr. Janssen, at New York, declaring that he had refused to appear before the supreme court of the State of New York, with the intention of rendering illusory the ends of justice through his consular immunities, (seeking to use his official position to defeat the ends of justice;) and as it is to be presumed that the same proceeding will be taken in respect of the consul general of Saxony, who is in like case as the consul of Oldenburg, the undersigned permits himself to ask the honorable W. H. Seward upon what principle of international law, or on what law of the United States, the revocation of the exequatur of the consul of Oldenburg was based in the aforesaid proclamation.

The undersigned requests the honorable Secretary of State to give him information on this subject, and seizes this occasion to reiterate to the honorable W. H. Seward the assurances of his most distinguished consideration.

FR. V. GEROLT.

Hon. WILLIAM H. SEWARD,
Secretary of State of the United States, Washington.

[Extract from the New York World of February 9, 1867.]

THE RIGHTS OF FOREIGN CONSULS IN STATE COURTS.

Supreme Court—Chambers.—Before judge Leonard.

Francis Bixby *et al. vs.* Leopold Schmidt. This is a second application by the plaintiffs to compel the acting consul general of Saxony to appear before the court and be examined before trial, pursuant to sections 390 and 391 of the code.

Mr. H. D. Lapaugh, the counsel for the Prussian government, appeared on behalf of the King of Saxony and for the consul general, Mr. Schmidt, and submitted that the State court did not possess, and could not acquire, any jurisdiction over a foreign consul; that article 3 of section 2 of the Constitution of the United States, and the judiciary act of 1789, are conclusive upon that subject; that foreign representatives can only be prosecuted in United States courts.

Judge Leonard coincided with the suggestion that the State court had no jurisdiction, and that it had been previously decided by him in an action against Mr. Janssen, the consul general of Oldenburg; that the court was absolutely without any jurisdiction against a foreign consul, and was bound, upon the fact of his consulship in any way coming to the attention of the court, to so declare. The judge then asked Mr. Lapaugh whether the Prussian government repre-

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sented at Washington the interests of the government of Saxony, to which Mr. Lapaugh replied that it did.

The counsel for the plaintiffs insisted that Mr. Lapaugh, as counsel for the government, should make an affidavit that Mr. Schmidt was the consul of Saxony.

Mr. Lapaugh remarked that the court was bound to take notice judicially on the appointment of foreign representatives. The judge said he had no doubt of the statement made by Mr. Lapaugh that Mr. Schmidt was consul, duly credited, and he should excuse him for the present from making any affidavit on the subject.

It is understood that the matter will be considered by his excellency Baron Von Gerolt, Prussian envoy at Washington, as it is becoming important that the rights of consuls in the State courts should be fully settled as between the government of the United States and foreign governments. The court therefore laid the matter over until next Friday.

Torrence, Spaulding, Richards (Richardson,) for plaintiff; H. D. Lapaugh for defendant.

Mr. Seward to Mr. Lapaugh.

DEPARTMENT OF STATE,
Washington, February 15, 1867.

SIR: In reply to your letter of the 9th instant, I have to inform you that the previous communication to which you refer, relative to the case of Gerhard Janssen, esq., of date the 31st ultimo, was received at this department on the 4th instant.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

HENRY D. LAPAUGH, Esq.,
No. 62 *Wall street, New York.*

Mr. Seward to Baron Gerolt.

DEPARTMENT OF STATE,
Washington, February 16, 1867.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Baron Gerolt, envoy extraordinary and minister plenipotentiary of his Majesty the King of Prussia, of the 13th instant, stating that, pursuant to the treaty of peace between Prussia and Saxony of the 2d of October last, his Majesty the King of Saxony conferred on his Majesty the King of Prussia the diplomatic representation of the interests of the former kingdom in countries where there was no diplomatic representative of Saxony, and that Baron Gerolt had accordingly been instructed to take charge of the interests of Saxon subjects in this country in the same way as if they were Prussian subjects.

Baron Gerolt then proceeds to invite the attention of the undersigned to a newspaper report of a summons of Mr. Leopold Schmidt, consul general of Saxony, for examination before the supreme court of New York in a suit pending there. This summons is represented to have been objected to by the counsel of Mr. Schmidt as a violation of the consul general's official privileges, and Baron Gerolt, pursuant to an apprehension which he intimates, that the exequa-

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tur of Mr. Schmidt may be withdrawn in consequence of that objection, asks upon what principle of international or municipal law such a proceeding would be founded.

In reply, the undersigned has the honor to express his surprise that a diplomatist of the acknowledged prudence and great experience of Baron Gerolt should have accidentally been betrayed into the irregularity of making a newspaper report the foundation of a formal diplomatic representation. The surprise of the undersigned is increased by the further irregularity in the baron's communication that he should anticipate what may be the decision of this government in a given case, and ask beforehand for the legal grounds of that decision.

The undersigned has the honor to inform Baron Gerolt that if in any event it should be deemed advisable to withdraw the exequatur of the consul general of Saxony, due notice of that proceeding will be given to the government of Prussia, to the end that an appointment of some acceptable person to fill the vacancy may be made by that government. It is considered that it would not be proper or customary to anticipate a proceeding of that sort.

The undersigned avails himself of this opportunity to renew to the Baron Gerolt assurance of his high consideration.

WILLIAM H. SEWARD.

Baron VON GEROLT, *&c., &c., &c.*

Baron Gerolt to Mr. Seward.

[Translation.]

LEGATION OF PRUSSIA,
Washington, February 20, 1867.

The undersigned, envoy extraordinary and minister plenipotentiary of his Majesty the King of Prussia, has had the honor to receive the note of the honorable Secretary of State, Mr. W. H. Seward, of the 16th of this month, in answer to his of the 15th, in which the honorable Secretary expresses his surprise that, "on the authority of a public report in a New York journal, on a litigated matter before the supreme court of the State of New York against the consul general of Saxony, Mr. L. Schmidt, in which the question of consular privileges in respect of the courts of the States was decided," the undersigned should have asked from the honorable Secretary of State information on the principle of international law, or of the laws of the United States, on which was based the revocation of the exequatur of the consul of the grand duchy of Oldenburg, promulgated by the proclamation of the President of the United States of twenty-sixth December last.

In reply to this note the undersigned has the honor to observe to the honorable W. H. Seward that the question which he thought it his duty to address to him on that occasion was not caused, as Mr. Seward says in his note, by the reclamation of Mr. Schmidt's counsel against a violation of privilege in respect of said consul, but by the decision made by the judge of the supreme court, Mr. Leonard, on a question of great importance, concerning the privileges of all foreign consuls in respect of the courts of the States in which they reside.

As the decisions of the courts of New York are generally published in the newspapers of that city under the official rubric "Courts of Law," the undersigned has not thought it necessary to present to the honorable Secretary of State an authenticated copy of the aforesaid decision of Judge Leonard, and the less because the like decision had already been made by the same judge and by other judges of the State of New York on this question of consular privileges.

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The undersigned prays the honorable Mr. Seward to remark that, in his note of the 15th of this month, he has not asked to be informed in anticipation on what principle of international or municipal law the revocation of the exequatur of the consul general of Saxony might be founded, but he thought he could ask the information as to the motives which have brought about a fact consummated, that is to say, the published revocation of the exequatur of the consul of Oldenburg, in which that consul, belonging to the most respectable class of foreign merchants in New York, was accused of having sought to evade the ends of justice by means of his consular privilege.

According to a declaration such as this it seems that the honorable Secretary of State does not recognize the privilege of foreign consuls in question, notwithstanding the judicial authorities above quoted. This question being of the greatest importance to the international relations of Prussia and other German states with the United States, it is difficult to comprehend the surprise of the honorable Mr. Seward that the undersigned, without pretension to the prudence and diplomatic experience that the honorable Secretary of State has been pleased to attribute to him, should address himself to the knowledge of Mr. Seward, so generally recognized in matters of international law, to be enlightened on the legal reasons which dictated the revocation of the exequatur of Mr. Janssen, consul of Oldenburg.

The undersigned had not any other purpose than to obtain needful information on the subject, in order to put on their guard the consuls of Prussia and of other German states who have received exequaturs from the President, against the judicial decisions in favor of their privileges, and to place them in position to avoid, in their ignorance of the true position which they occupy toward the federal government, the severity of a proclamation by the President because of imaginary immunities they might reclaim; but as the honorable Secretary of State is of opinion that it is neither befitting or usual to give information to a representative of a friendly government on a question so important to all consular representatives in the United States, and as he qualifies as irregular the question which the undersigned has asked him, it only remains for him to take note of the negative response given by the honorable Secretary of State, and to leave to the consuls of his nation the care of addressing themselves directly to the judicial authorities of the United States competent to render available their imaginary rights to privilege under the Constitution and laws of the United States.

From the point of view at which the undersigned has had to look at and present this question, under existing circumstances, the Hon. W. H. Seward will judge of the surprise which the undersigned felt in his turn, on learning, by the note from the honorable Secretary of State of the 16th instant, that he had not the right to ask for information on the subject of the revocation of the exequatur of a consul of his nation; that such a request was considered as irregular, not befitting, and contrary to diplomatic usages; and that in case it should be deemed suitable to withdraw the exequatur of the consul general of Saxony, the honorable Secretary would give the notification thereof directly to the royal government, in order that it might appoint an acceptable person in his place.

The government of the King can only remark with regret that the Hon. W. H. Seward, in his note of 16th instant, appears to consider as an international principle a practice little known among friendly governments, that of suspending the functions of a foreign consul without giving notice to the diplomatic representative of his country, and without making the measure known, in this manner depriving him of the faculty of making, in certain cases and in the interest of the relations of good understanding between the two countries interested, representations against the severity of a measure which might have been occasioned by partial denunciations by interested persons, or by facts presented under false colors, against the consul aggrieved.

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The undersigned, in presenting herewith to the honorable Secretary of State an authentic copy of the decision of Judge Leonard, of the supreme court of New York, on the validity of the consular privilege of the consul general of Saxony above mentioned, has the honor to renew on this occasion to the Hon. W. H. Seward the assurances of his most distinguished consideration.

FR. V. GEROLT.

Hon. WILLIAM H. SEWARD,
Secretary of State of the United States, Washington.

SUPREME COURT.

At a special term of the supreme court of the State of New York, held at the City Hall in the city of New York, on Friday, the 15th day of February, one thousand eight hundred and sixty-seven.

Present, Hon. William H. Leonard, justice.

FRANCIS M. BIXBY
against
GERHARD JANSSEN, LEOPOLD SCHMIDT, and others.

An application to compel Leopold Schmidt, above mentioned, to appear to be examined as a witness, and to give testimony at the instance of the plaintiff herein, before trial, and an order therefor having been granted, after hearing Spaulding & Richardson, of counsel for the plaintiff, and Mr. Henry D. Lapaugh, of counsel for the said Leopold Schmidt, and it appearing to the court from the exequatur of said Leopold Schmidt that he is the consul for his Majesty the King of Saxony at New York—

It is ordered that the said order be and the same is hereby dismissed for want of jurisdiction.

I, William C. Conner, clerk of the said city and county, do certify that I have compared the preceding with the original order on file in my office, and that the same is a correct transcript therefrom, and of the whole of such original.

In witness whereof, I have hereunto subscribed my name and affixed my official seal this 20th day of February, 1867.

[SEAL.] WM. C. CONNER, *Clerk.*

Mr. Seward to Baron Gerolt.

DEPARTMENT OF STATE,
Washington, February 26, 1867.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Baron Gerolt, envoy extraordinary and minister plenipotentiary of his Majesty the King of Prussia, of the 20th instant, on the subject of the President's withdrawal of the exequatur of the consul of Oldenburg at New York, which took place on the 26th of December last, and of an apprehension entertained by the baron that the exequatur of the consul of his Majesty the King of Saxony, at the same place, may for some proper cause, at some time hereafter, be revoked.

In reply, the undersigned has the honor to state that at the time when the exequatur of the consul of Oldenburg was withdrawn by the President, this government had not received, not has it yet received, any information that Baron Gerolt

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represents the grand duchy of Oldenburg, near this government. The undersigned has already, heretofore, taken notice from Baron Gerolt that Prussia claims a right to hold diplomatic correspondence on behalf of Saxony. The undersigned will therefore always be ready to give the most respectful attention to any representations which the baron may, in the character of the representative of Saxony, see fit to make. The undersigned, however, is not aware that any practical question affecting the political interests of Saxony has hitherto arisen or is now existing.

The undersigned avails himself of this occasion to offer to Baron Gerolt renewed assurances of his high consideration.

WILLIAM H SEWARD.

Baron VON GEROLT, *&c., &c., &c.*

Baron Gerolt to Mr. Seward.

LEGATION OF PRUSSIA IN WASHINGTON,
March 7, 1867.

The undersigned, envoy extraordinary and minister plenipotentiary of his Majesty the King of Prussia, has the honor to inform the honorable William H. Seward, Secretary of State of the United States, that the government of the grand duchy of Oldenburg applied to the government of the King, on the 5th of February, asking him to instruct his Majesty's legation in Washington to use its good offices near the government of the United States to obtain information in regard to the cause of the revocation of the exequatur of the consul of Oldenburg, Mr. G. Janssen, at New York, by the proclamation of the President of the United States on the 26th of December last.

In conformity with that request of the government of Oldenburg, the government of his Majesty has ordered the undersigned to apply to the honorable Secretary of State, and request him to have the kindness to furnish the information desired by the government of Oldenburg.

The undersigned, in obeying the order, profits by the occasion that offers to repeat to the honorable William H. Seward the protestations of his most distinguished consideration.

FR. V. GEROLT.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington.

Mr. Seward to Baron Von Gerolt.

DEPARTMENT OF STATE,
Washington, March 11, 1867.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note addressed to him by Baron Von Gerolt on the 7th instant, in which he states that his government, at the instance of the government of Oldenburg, has directed him to obtain information in regard to the cause of the revocation of the exequatur of the consul of Oldenburg at New York, Mr. G. Janssen, by the proclamation of the President of the United States, dated the 26th of December last.

In reply, the undersigned has the honor to transmit to Baron Von Gerolt a copy of the proclamation alluded to for the use of the government of Oldenburg.

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The baron will be at liberty to inform the government of Oldenburg that the government of the United States, adhering to the ninth article of the treaty with Hanover, to which Oldenburg is a party, will, with pleasure, receive any unexceptionable person who may be appointed by Oldenburg, to fill the place made vacant by the revocation of Mr. Janssen's exequatur.

The undersigned takes this occasion to offer to Baron Von Gerolt renewed assurances of his very high consideration.

WILLIAM H. SEWARD.

Baron VON GEROLT, &c., &c., &c.

Mr. Lapaugh to Mr. Seward.

WASHINGTON, D. C., *March* 13, 1867.

SIR: I had the honor to submit to you, respectively, on the 1st of January and the 4th of February last, communications relative to the case of Gerhard Janssen, esq., and to apply therein for the withdrawal of the proclamation of his Excellency the President, revoking the exequatur issued to Mr. Janssen as the duly appointed consul at New York of his Royal Highness the Grand Duke of Oldenburg.

In view of the importance of the subject, as well as the right of Mr. Janssen to have justice done him in the matter, I hereby take the liberty, as counsel for him, and the consulate of Oldenburg, respectfully to renew, and earnestly urge, the request that his Excellency the President recall the above-mentioned proclamation, and that Mr. Janssen be permitted, as the consul of Oldenburg for New York, to exercise and enjoy such functions, powers, and privileges as are allowed to consuls by the laws of nations, or by the laws of the United States.

In my previous communications brought before you for consideration in this affair, I contented myself in presenting such facts only as bore more directly upon the public law or the international question involved.

Circumstances, however, have since occurred, which, in my opinion, certainly excuse, even if they do not now actually require, my going a step further, and, by this paper, calling your attention to the fact that the first proof of the consulship of Mr. Janssen, which was introduced into the suit of Humphrey & Co. against Mr. Janssen, consists of the certificate or letter from the Hon. F. W. Seward, Assistant Secretary of State, dated the 25th day of June last, addressed to Humphrey & Co.'s attorneys, namely, Torrance, Spaulding & Richardson, and by them, as such attorneys, read in evidence on the part of Humphrey & Co., in their said suit against Mr. Janssen, before Judge T. W. Clarke on the 7th of July last.

Of the existence of that letter, or of the intention to have the same put in evidence, neither Mr. Janssen nor myself had any knowledge until the said letter was so read in evidence before the court by the attorneys of Humphrey & Co.

Whether the State Department will sanction the use made of that letter by Humphrey & Co., now that the department has full information of such use, remains, of course, to be made known. Still, I take pleasure in expressing the belief that the department will discountenance that act or proceeding of Humphrey & Co, and promptly disavow that the said letter was furnished by the department to Torrance, Spaulding & Richardson with the intention of having it used by them for the accomplishment of the purpose in which they employed the same.

Although Mr. Janssen had the undisputed right, in the suit of Humphrey & Co. against him, to prove that he was the consul of Oldenburg, yet it so happened, in this instance, not only that he did not do so, but that all the evidence in that suit as to his consulship was introduced by Humphrey & Co. or their attorneys.

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It was, therefore, not Mr. Janssen who used his official position, but the parties opposed to him, for in the very moment that those parties furnished the information in the aforesaid suit to the *State court* that Mr. Janssen was then a foreign consul, duly accredited to the United States, that court was compelled, in accordance with the law, to dismiss the proceedings of Humphrey & Co. pending against Mr. Janssen for want of jurisdiction; and yet, because the court did thereupon dismiss those proceedings, on that precise ground and upon no other the exequatur issued to Mr. Janssen is summarily and without any notice to him absolutely revoked by the President.

The manifest injustice thereby inflicted upon Mr. Janssen and his government no one can fail to perceive. It has become, under the circumstances, scarcely possible to add anything more to the strength or sufficiency of the reasons already presented by Mr. Janssen for the withdrawal, by the executive authority of the United States, of the aforesaid proclamation.

Nevertheless, in this connection, it may be well to observe that the shipping interests of Oldenburg are being subjected to serious inconvenience and exposed to constant risk at New York because of the declaration by the President that he no longer recognizes Mr. Janssen as the consul of Oldenburg for that port, and will not permit him to act as such.

For several weeks last past there have been, on an average, daily at New York, six or seven merchant vessels belonging to Oldenburg, and hence the due consideration for the interests and necessities of commerce, as well as justice to Mr. Janssen, would be greatly subserved by the restoration to Mr. Janssen of his consular functions, powers and privileges, and especially so since both his government and himself feel confident that he was entirely correct as to the law and fact in the course of action which he, as the consul of Oldenburg, deemed it his duty to pursue, and that the communications in that respect handed to you on his behalf ought to be accepted as satisfactory to the government of the United States.

Moreover, it must by no means be overlooked that Mr. Janssen has never as yet had afforded to him any opportunity of seeing the statements or hearing the representations of the person or persons who moved for and brought about the revocation of his exequatur, and therefore I respectfully ask, on the principle of common fairness towards Mr. Janssen, for a statement or explanation from the government of the United States of the reasons or motives upon which the revocation of his exequatur was suggested or sought, and also for the grounds of the charge upon which that revocation was finally proclaimed by his Excellency the President.

Mr. Janssen deeply regrets that in this matter of the revocation of the exequatur, his own reputation, as well as that of the consulate of Oldenburg, has been assailed unjustly and without cause, and consequently he demands from the government of the United States, through whose premature or inadvertent action the injury or mischief has been done, a speedy hearing of his case by the President of the United States.

In that event I do not hesitate to affirm that it would be established to the entire satisfaction of the President that Mr. Janssen is legally and justly entitled forthwith to be restored to the free exercise and enjoyment of his consular functions, powers and privileges, and of the exercise and enjoyment of which he has been wrongfully deprived, as I have good warrant for saying, by grave misapprehensions induced or created by the adversaries of Mr. Janssen, in order merely to further their own private ends of more than doubtful propriety.

Repeating hereby my request on behalf of Mr. Janssen for the undelayed granting of the application for the recall of the President's proclamation of revocation in Mr. Janssen's case, and soliciting, in the same, the favor of an im

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mediate personal interview with you, I have the honor to remain, sir, with the assurance of my highest esteem,

Very respectfully, your obedient servant,

HENRY D. LAPAUGH, *Counsel.*

Hon. WILLIAM H. SEWARD,
Secretary of State of the United States.

Report of E. Peshine Smith, examiner of claims.

DEPARTMENT OF STATE, BUREAU OF CLAIMS,
Washington, March 20, 1867.

To the Secretary of State:

In accordance with your instructions I have reviewed the entire correspondence relating to the revocation by the President of the exequatur of Gerhard Janssen, esquire, as consul for the Grand Duke of Oldenburg.

The reason assigned for such revocation in the President's proclamation is that Mr. Janssen had "refused to appear in the supreme court of the State of New York to answer in a suit there pending against himself and others, on the plea that he is a consular officer of Oldenburg, thus seeking to use his official position to defeat the ends of justice."

These words "refused to appear to answer" are descriptive as well of a refusal to appear and answer as a party in the pleadings, as of a refusal to appear and answer as a witness. The counsel of Mr. Janssen have taken advantage of the double sense which may be attributed to those words to obscure the discussion of the true issue by long explanations in respect to one which was wholly immaterial.

That Mr. Janssen had a perfect right to decline to appear and answer as a party in a State court was never questioned by this government, and it could not but be known to his counsel that had he chosen to exercise that right, no offence could or would have been taken. In point of fact, as it appears without dispute, he elected to waive his privilege in that particular, and voluntarily made himself a party to the pleadings by causing an appearance to be entered for him, although he had not been served with process, and an answer to be put on his behalf. In respect to this, there was no accusation nor imputation of blame; and Mr. Janssen's counsel exhibit such knowledge of the law and of the practice of this government upon this point, that they could not be ignorant that the offence imputed to him was not a refusal to appear and answer as a *party*, but a refusal to appear and answer as a witness.

That Mr. Janssen was required to appear as a witness and to give his testimony in an action pending in the supreme court of the State of New York, is not questioned. Nor is it denied that, having notice of the requisition, he failed to appear; that the counsel who appeared in his behalf at the time and place for complying with the summons set up the fact that his client was the consul of Oldenburg; and that as a consequence of this, and upon no other ground, the proceeding was dismissed and the plaintiffs in the suit lost the benefit of his testimony.

This government instructs its consular officers, even where, as in France, there is a treaty stipulation, that they shall not be compelled to appear as witnesses before the courts; that it is nevertheless their duty, on invitation, to appear and give their testimony unless necessarily prevented; that they have no right on account of their official position, or disinclination, or personal inconveniences, to refuse compliance with such invitation, and that a refusal without good cause therefor will be regarded as an act of disrespect toward the govern-

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ment within whose jurisdiction the consul resides, and as a sufficient reason for his removal. (Consular Manual, sections 639 and 641.)

The United States expect from the consular officers of foreign powers the same respect for the courts, and the same readiness to contribute their testimony when invoked in the administration of justice, which we enjoin upon our own officers. Especially is this expected from consuls engaged in commerce, as was Mr. Janssen.

The fact that Mr. Janssen was himself a defendant in the action in no way diminished his obligation to appear as a witness. On the contrary, his voluntary appearance as a party, when he might have declined to appear, might well be regarded as a formal intimation of his willingness to do what any one else would be bound to do in similar circumstances, and what he would not be permitted to refuse in a suit against any other person.

I think, therefore, the revocation of Mr. Janssen's exequatur was rightful and ought not to be annulled.

While stating the conclusion in such terms, I ought perhaps to disavow any implication that there can be a question of *right* between this government and Mr. Janssen. In the absence of a treaty stipulation on the subject, the question whether we shall receive any consul from a foreign power is one of comity, and not of strict international law. It is not and never has been a question, that the government remained at liberty to refuse or revoke an exequatur when the person seeking or holding it is for any reason unacceptable, and that it owes him no explanation of the motives which induce its action.

It was not for the purpose of justifying his course to Mr. Janssen that the President gratuitously stated in his proclamation the cause for revoking his exequatur; it was doubtless as a monition to other consular officers as to the conduct expected of them.

E. PESHINE SMITH,
Examiner of Claims.

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REPORT

OF

THE SECRETARY OF THE INTERIOR,

COMMUNICATING,

In compliance with a resolution of the Senate of the 30th ultimo, reports of the government directors of the Union Pacific Railroad Company.

APRIL 2, 1867.—Read; ordered to lie on the table and be printed.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 2, 1867.

SIR: In answer to a resolution adopted by the Senate on the 30th ultimo, requesting the Secretary of the Interior "to transmit to the Senate a copy of the report of the government directors of the Union Pacific Railroad Company, made during the last year, and that the same be printed when received," I have the honor to enclose reports from the government directors of the said railroad company, as follows, dated respectively, February 28, May 17, August 30, September 14, October 2, November 23, and December 1, 1866, January 7, 10, and 30, and March 2, 1867.

I am, sir, very respectfully, your obedient servant,

O. H. BROWNING, *Secretary.*

Hon. B. F. WADE,
President of the Senate of the United States.

FORT WAYNE, INDIANA, *February 28, 1866.*

SIR: The quarterly meeting of the directors of the Union Pacific Railroad Company, which in regular course should have taken place on the first Wednesday in January, was held in New York on the 7th of February. The government directors, having only a few days before had the honor of reporting to you in person, separated without making a further report upon the general business.

The undersigned, as a member of the committee on location and construction, devoted some time after the adjournment to a careful examination of the additional topographical and engineering facts bearing upon the location, as ascertained by the surveys of 1865, so far as at that time had been reported to the office. In this investigation I had the important aid of Mr. James S. Evans, one of the intelligent and enterprising engineers of the company, who during the past two seasons have conducted these very important surveys.

The report of the government directors, dated July 8, 1865, contained the following brief reference to the surveys proposed for the working season of that year:

"For the field-work of 1865, two full engineer parties have been sent out,

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with a third party, numerous enough for separate explorations, in advance The instructions given by the vice-president for the season's work cover the location from the 100th meridian to the eastern base of the Black Hill range, together with a survey of the South Pass route via the North Platte; and also the ascertainment of the fact whether or not a better route than the one surveyed last year from the Black Hills to Salt Lake can be found further south, passing through the basin of the Green and Uintah rivers."

The surveys and explorations between the Laramie river and Salt lake, under the charge of Mr. Samuel B. Reed, civil engineer, not having been reported to the office, owing probably to his engagement in construction during the winter, any special reference to that portion of the route must be deferred. I understand that Mr. Reed ran a line eastward from some point of connection with the Bridger Pass line of 1864, via South pass, and down the Sweetwater valley. He also made a reconnoissance of the Wahsatch mountain range, southeast from Utah lake, to test the practicability of a line from Salt lake to the Green river basin, via the Spanish Fork and the Uintah river, passing along the southern base of the Uintah mountains. The feasibility of getting into the Green river basin from the east, by crossing its eastern rim, through the head branches of the Platte on one side and of Bear river on the other, was examined by Mr. Evans. He reports that he followed up the most promising branch of the Laramie river, and found its direction and other features so unfavorable as to afford little ground to expect a practicable line across this part of the mountain range.

The party in charge of Mr. Evans was chiefly employed during the season in perfecting the route across Black Hills, and in connecting the surveys thence eastward along the Platte with the definite location from Omaha westward. A part of the field-work marked out for 1865 was necessarily deferred to the coming season, mainly in consequence of harassing disturbance and apprehension from Indian hostilities. And yet important progress has been made toward the solution of those weighty problems of location that must arise in the proper adjustment of two thousand miles of railroad line traversing a vast mountainous region, which, after all the liberal and wisely directed efforts of the government and its competent corps of topographical engineers, was found, at the commencement of these surveys, in great measure unexplored. A connected survey, with actual distances and levels, can now be reported from Omaha on the Missouri river to Salt Lake City, presenting a feasible line, both as to cost of construction and future working. The distance by the longer of two feasible routes over the Black Hills (the Cache la Poudre line) is 1,079 miles, subject to any variation which a definite location may cause. This surveyed distance is about thirty-five miles less than was assumed by Lieutenant Beckwith from his exploration in 1852, as given in the report of the Secretary of War.

In pursuance of the policy governing the board, looking not only to a practicable route but the discovery of the very best route over the difficult sections, a continued liberal expenditure of time and means in preliminary surveys is contemplated by them. The definite survey of the Lodge Pole line, from the mouth of that stream to the base of the mountains at Camp Walbach, hitherto only assumed in the comparison, the completion of the survey of the South Pass and North Platte route, with a reconnoissance, at least, of the Laramie river, in the section cutting through the Black Hills, where its cañons are reported as formidable, are among the important preliminary examinations marked out for the coming season. And as the question between the north and south forks of the Platte has a bearing, necessarily, upon the yet open question as to the point of junction of the Kansas and Iowa branches on the 100th meridian, which it is the province of the President of the United States to establish, and as the rapid progress of the grading westward will probably require the settlement of this question within this year, I have suggested to the board that the survey of the North Platte be completed at the earliest day practicable.

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The nature of the mountain barrier stretching at right angles across the route of the Pacific railroad, known as the Black Hills, is well understood. Though but a spur of the main Rocky mountains, and not of itself the divide of the continent, yet the Black Hill range rises rather abruptly, at the lowest pass yet surveyed, some three thousand feet above the valley of the South Platte, near its base. Taken in connection with the Park mountains, sometimes called the Snowy Range, lying west of Denver, which rise generally two thousand to three thousand feet higher, and from which the Black Hill range is an offshoot, the whole chain from the South Park, near the headwaters of the Arkansas, to the point where the North Platte cuts through it, is in length transversely with our line over two hundred miles. When the surveys of this year are completed, a large proportion of three successive seasons will have been devoted by engineers of the company in instrumental examinations of this mountain barrier at its several points of greatest relative depression.

The board seem to have recognized, as a sound general policy, the idea of touching, in the location of this work, built for the development of our interior resources as well as for through commerce, those districts in which our enterprising people have formed settlements, growing speedily into States of the Union, and where they have already built up important material interests either in mining or agriculture, when this can be done without too great increase of distance. In 1864 Mr. F. M. Case, engineer, was instructed to examine by actual survey, and otherwise, the practicability of crossing the mountain range lying directly west of Denver. His report, in which was embodied the route of a previous examination made in 1862, refers to five distinct routes south of the Cache la Poudre line, which had been spoken of as possible or practicable for railroad purposes, and over two of which, in his judgment the most feasible, he had made an instrumental reconnoissance. At the Hoosier pass, the most southerly of the five, the grade line assumed was estimated to be 10,650 feet above the sea level, and requires a tunnel 2½ miles long. The route to the other pass, besides the objection of running for twenty miles through the cañons of the South Platte, seems to carry the road too far south of the proper direction to Salt lake. At the Berthoud pass, directly west from Denver, the grade line assumed as most judicious is reported, from actual tending west of that point, as 10,280 feet above the sea, requiring a tunnel 3½ miles long through granite rock. The summit of the mountain here rises 1,280 feet above the tunnel. No point of crossing this mountain range in the direction of Salt lake has yet been discovered by the engineers, or suggested by others, less formidable than Berthoud pass. The mere statement of the engineering facts places it out of the comparison. The enormous cost of the tunnel, the time required to excavate it, and the burden of passing the commerce of the country over an elevation two thousand feet higher than by routes further north, forbid the contemplation of this route, and suggest the impracticability of passing by Denver, unless further examination should discover a lower pass; for, even if the main line were brought to this point from the east, it must then turn north, at right angles with the general course, following near the base of the mountain for fifty or sixty miles to the gorge of the Cache la Poudre creek, before commencing the ascent westward.

The unfavorable result of these examinations will not surprise any one who has intelligently examined the territorial map. The mountain ridge, forming here the divide or water-shed of this part of the continent, is known to reach its greatest altitude as it skirts the North and Middle Park. The four great rivers, the Rio Grande, the Arkansas, the Platte, and the Colorado of the West, have their sources in this section of the Rocky mountains. Unless it may be a few more peaks in the Wind River mountains and in the Sierra Nevada, there is probably no section between the Mississippi and the Pacific ocean reaching so great altitude as is found in this snowy range.

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Should the proposed survey of the North Platte, the aim of which is to flank the higher portion of the Black Hills, present a feasible route, we shall then have a choice among three lines, by either of which the Black Hill range may be crossed, covering, at their widest divergence, a distance north and south of 130 miles. In the present stage of the examinations two routes may be described and a comparative view presented as follows:

1st. Lodge Pole and Crow Creek route, 186 miles. This line, leaving the South Platte at mouth of Lodge Pole creek, follows up this direct east and west valley to base of mountain at Camp Walbach; thence (abandoning the Cheyenne pass, from which eastward the mountain descends too rapidly) the line bears to the southwest, via headwaters of Crow creek, and over Durant pass, to a common point (Station 2,606) at western base of the Black Hills. Grade line at summit is 8,398 feet above sea level; no tunnel required at summit, but an open cut, 50 feet deep, through granite. Ruling grade, ascending westward; first, 105 miles, 30 feet per mile; next, 50 miles to base of mountain, ruling grade ascending westward 45 feet per mile; next, 14 miles ascending slope, ruling grade 80 feet per mile; next, 6 miles to summit, a continuous ascending grade of 116 feet per mile; thence westward 5 miles, a continuous descending grade of 116 feet per mile; and next, 6 miles, a ruling grade, descending 80 feet per mile, to the common point at western base of Black Hills.

2d. Cache la Poudre route, 218 miles. Diverging at mouth of Lodge Pole creek, this line follows up South Platte and the Cache la poudre creek to base of mountain at Laporte; thence bearing northwest along and near Dale creek, and over Antelope pass, to the common point at western base of mountain, (Station 2,606.) Grade line on summit, 8,045 feet above sea level; no tunnel required; cut only 5 or 6 feet. For the purpose of comparison, in respect to the facility of operating the mountain division, we may commence at a point in the South Platte, equidistant with the mouth of Lodge Pole creek, from the common point at western base. Ruling grades, ascending from this point westward, are, for first 138 miles to base of mountain at Laporte, 20 feet per mile; next, 25 miles, ascending mountain slope, ruling grade 80 feet per mile; next, 12 miles to crest of mountain, a continuous ascending grade of 116 feet per mile; thence descending westward, 3 miles, continuous grade of 105 feet per mile; and next, 8 miles, descending westward, ruling grade 80 feet per mile, to the common point at western base of Black Hills.

This comparative statement must be regarded as approximate. In connection with the annexed rough profile sketch, marked A, of the two lines for 186 miles in length, it gives a good general idea of the character of the road over the Black Hills, and the nature of the engineering questions which will arise in the comparison of these two routes on the full completion of the surveys.

Omitting for the present any detailed calculation of relative cost of operating these two lines, which would be out of place in this general report, it will be observed that the Cache la Poudre line leads to a depression in the mountain (Antelope pass) 353 feet lower than the summit over which the Lodge Pole line passes, (Durant pass,) referring in each case to the grade line giving the advantage of less elevation by that amount for the traffic to pass over. On the other hand, this route must be charged with the obvious disadvantage of 32 miles additional length, alleviated somewhat by the fact that this extra distance lies in the level valley of the South Platte, and therefore cheaply constructed and operated. A commercial view of the question might find compensation in the nearer approach of the Cache la Poudre line to the existing mining operations of Colorado—so near, indeed, that a branch road to Denver would probably be constructed when that new State shall have acquired the needful strength.

Taking in at one view the topographical features of the entire route east of Bridger's pass, which is the point of division between the waters flowing into two oceans respectively, distant 736 miles from the Missouri river, there

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seems to be nothing unfavorable to the working of the road with economy, certainty, and speed. The elevation of the Black Hills is the formidable obstruction. But the wide, smooth, and direct valley of the Platte, stretching out for 500 miles to the very base of the mountain, presents as an approach a uniform and gradually ascending plane, with grades ranging from 5 to 20 feet per mile, while the total ascent, from entrance into the Platte valley, 30 miles west of Omaha, to the summit of the mountain, is, by the Cache la Poudre route, 6,917 feet in a distance of 563 miles, overcome almost imperceptibly on the plains before reaching the foot of the mountain at Laporte, or by the Lodge Pole, which rises more rapidly. Over four-fifths of the total rise is made on the plains before reaching base of mountain at Camp Wabach. By either route the line divides itself, for operating distinctly into two sections, mountain and plane—each using a class of locomotive engines adapted to the power required, thus securing economy in the highest degree. It is, moreover, a favorable feature that in all this distance no undulating line intervenes. With care in the location, no elevation once attained need be lost. The grade from the Elkhorn to the mountain crest may be either ascending or level.

The well-known scarcity of timber on the plains for cross-ties and bridges is a characteristic, tending, on the other hand, to increase the expense of construction and operating. The limited growth, chiefly cotton-wood, on the islands and banks of the Platte, is in unfavorable contrast with the abundance of oak generally found in the States. Immediately after crossing the Black Hills, groves of pine and spruce are reported on the northern slopes of the Medicine Burr mountains, a portion of which is within carting distance from either of the two routes described, and also available for the line further west by floating down the Laramie river. This timber tract has not been carefully examined, but Mr. Evans says that, standing on a high point of the Black Hills, from which it was in distant view, he estimated its probable area equal to four hundred square miles. He considers it a valuable resource for the road.

The fuel question is likewise important. Coal must be chiefly used. All reports, as far back as the exploration of Captain Howard Stansbury in 1850, concur as to the existence of coal on Green river and its tributaries. But between this and the coal-fields of western Iowa or of Kansas eight hundred miles of road are to be operated. The discovery of coal of good quality in the Black Hills or on the Platte would materially cheapen the working of the road. It is found near Denver, and Mr. Evans heard from others that some coal had been mined on his route, near eastern base of mountain. As every additional burden upon transportation will be paid finally by the commerce and productions of the country in charges upon traffic, whatever may tend to lessen or cheapen the motive power is of public importance.

All of which is respectfully submitted.

J. L. WILLIAMS,
Government Director Union Pacific Railroad Company.

Hon. JAMES HARLAN,
Secretary of the Interior.

PITTSBURG, *May* 17, 1866.

SIR: In compliance with the duties imposed upon the government directors of the Union Pacific railroad, I have the honor to report:

At the request of the vice-president I accompanied him to Omaha, Nebraska, arriving there Saturday, April 28, and spent eleven days on the line of operations, in a personal examination of everything that would tend to give me an intelligent idea touching the condition, management and progress of the work. On our reaching the initial point at Omaha, I found the Burnettizing buildings,

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temporary car-house, and saw-mill, considerable construction material, and the low river base of the company's operations, submerged by the overflowing waters of the Missouri, to an average depth of, say from one to three feet. The general business of the company was interrupted for about two weeks, say from the 23d of April to the 7th of May.

By the active management and exertions of Samuel B. Reed, esq., general superintendent, his assistants and employés, the company's movable property was to a great extent removed and secured, so that it was supposed that the absolute loss to the contracting company will not be very great; yet at considerable cost of time and money. I am pleased to be able to report that the company's permanent brick machine and workshops are situated on more elevated grounds, further from the river, and not in the least damaged. I think it would have taken from four to five feet more of a rise in the waters to have materially affected them. I was informed that the greatest floods known by any of the inhabitants were in April, 1857, and June, 1862. The flood of this year was, according to their data and recollections, within about seven inches as high as that of 1857, and within twelve to eighteen inches as high as the flood of 1862.

To provide against loss and interruption to the business of the road, by the recurrence of these overflows, should receive the early attention of the board of managers of the company.

The machine and workshops, engine-houses, and turn-tables of the company at Omaha, erected, as I was informed, in the unprecedented short time of sixty-five days, during last fall and winter, which contain one million one hundred thousand (1,100,000) well-burned bricks, good stone foundations and metallic roofs, are of the most permanent character, and conveniently arranged. The machinery in the same is sufficient for the present wants of the company, and of the latest and most approved construction.

On the 3d instant I accompanied the vice-president and consulting engineer of the company over the line of completed road to a point near Shell creek, a distance of seventy-five miles. We found the line in good condition, and it will compare favorably with any newly-constructed western road. At this point the track-layers, under the superintendency of General J. Casement, were energetically pushing the work at the rate of three-quarters of a mile to one mile per day. Additional boarding cars, sleeping coaches, and tents were being provided, so as to increase the track-laying force, which I since learn by telegraph has been done, and the work is now progressing at the rate of about 7,000 feet per day.

I confidently believe the first one hundred miles will be completed by the 1st day of June, whereby the act of incorporation, requiring one hundred miles of road to be built, will be fully complied with. The energetic contractors informed me that they contemplated providing artificial lights, to expedite the work by night as well as by day, and if possible complete one mile and a half to two miles every twenty-four hours.

From Shell creek I accompanied Colonel S. Seymour, consulting engineer, to the Loup Fork, and over a portion of the grading on the second one hundred miles.

I am pleased to be able to report that the temporary bridge over this river is completed and ready for the track-layers.

The energy displayed by Messrs. Dort and Butterfield, the contractors on this work, as well as by Mr. Reed, general superintendent, and Messrs. Case and Hurd, division engineers, deserves honorable mention. The first pile was driven March 22, and the last on May 2. The bridge is 1,500 feet long, with 57 bents, 3 piles each, and 37 bents, 4 piles each—in all 319 piles. The permanent bridge, which is intended to take the place of the temporary one, is being pushed forward with vigor—five-pier pile foundations and two-pile abut-

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ments are driven. The masonry of this structure will most likely be limestone, transported from the quarries of the Poppillon.

I am informed no stone has yet been found between the Elkhorn and a point on the bluffs, about 110 miles beyond Fort Kearney, where it is supposed a good quality can be procured. The only bridging of any importance between Loup Fork river and Fort Kearney is one of 100 feet span, over Wood river, about 75 miles west of Loup Fork.

The grading on the second one hundred miles can (and I think will) be completed by the 15th of June. A corps of engineers have been sent out to definitely locate the third one hundred miles.

Returning to Omaha, I spent several days with the consulting engineer, examining the river banks and the effects of the overflow of the river bottoms for several miles up and down the Iowa and Nebraska sides of the Missouri. The proper site for a bridge-crossing of this river is a subject of momentous importance, not only to this company, but to the country and to the various railways pointing to connections with it, and it should be definitely settled at an early day, for the benefit of the various interests involved. Surveys and soundings have been made, the maps and profiles are being prepared, so that it is hoped intelligent conclusions may be arrived at.

Of equipment, I find there are five locomotives now on the line of road; four more in transit, which at this time, I presume, have reached the line of road; an additional seven contracted for, to be delivered by the 10th of June. Two first-class passenger coaches on the line of road, one more in transit, and two additional ones to be delivered in June. One hundred and nineteen box and platform cars on the line of road and in transit between Hannibal and St. Joseph.

CONSTRUCTION MATERIAL.

The vice-president informs me that the railroad iron, chairs, and spikes delivered, in transit, and provided for, will be sufficient to reach a little beyond the 100th meridian, say 250 miles from Omaha.

The general superintendent informed me that ties on hand and paid for from Omaha to Grand island numbered	116,900
Under contracts from points in the Missouri above and below Omaha	134,000
Under contract on the line of road of the first 100 miles	35,000
Under contract on the line of road of the second 100 miles	80,000
Under contract on the line of road of the third 100 miles, being red cedar, to be delivered by January 1, 1867	100,000
Estimated to be delivered under verbal contract	15,000
Estimated to be delivered from contractors' lands at three different points	170,000
Total	650,900

Being sufficient ties for the construction of over 250 miles of road.

The company is still put to serious inconvenience for the want of railway connections to and from the east. I am pleased to be able to report that these difficulties will be obviated next year certainly. Most of the railroads through Iowa, pointing to connections with the Union Pacific, are making more or less progress, while some are pushing ahead with commendable vigor. The Cedar Rapids and Missouri River Railroad Company, under the active management of John J. Blair, esq., of New Jersey, have put their entire work from Boonesboro (its present terminus) to the Missouri river under contract; a force of fully 1,500 men, with sufficient teams, is now employed upon the work. All of the grading on the first forty miles west of Boonesboro will be completed by the 10th of July. This embraces some of the heaviest work on the line.

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The bridge over the Des Moines river, 840 feet, including its approaches, 1,000 feet in length, is completed, and the track is laid 5½ miles west of Boonesboro; 520,000 ties contracted for and being delivered, and 8,800 tons of iron, sufficient for 120 miles of road and sidings, on hand at the Des Moines river and in transit.

For this intelligence I am under obligations to W. W. Walker, esq., chief engineer. I confidently believe that this work, with its energetic management and its abundance of means, can reach the initial point of the Union Pacific within the next twelve (12) months.

The Mississippi and Missouri railroad is about passing into new hands, who have the ability, and whose interest will be manifestly, to reach the Missouri river at the earliest day possible.

The Burlington and Missouri River Railroad Company, I am informed, have a large force at work constructing westward. I am also informed that the Des Moines Valley railroad is making rapid progress and is confidently expected to reach the city of Des Moines within a few months.

The American Central railway, recently organized, or rather reorganized, is, I am informed, under contract from Fort Wayne, Indiana, to the Missouri river, to be completed to New Boston, on the Mississippi river, in three years from the 1st of January, 1866, and from thence to the Missou i river within two years thereafter.

I am informed by Willis Phelps, esq., who, with his associates, is constructing the Council Bluffs and St. Joseph railroad, that they expect to be able to complete their road within this year, if some of the legal difficulties on the Missouri portion of the line can be overcome within a short time. The ties for the entire road are provided and one-fifth of the iron is in transit.

I could not learn of much progress being made westward on the Dubuque and Sioux City railroad. I herewith append a small map showing the probable connections at an early day of the several lines through the State of Iowa with the Union Pacific railroad. The lines will be feeders as well as receivers of a trade and business of no ordinary magnitude.

I think the question of the future business of the road merits our earnest consideration. The entire nation has a substantial interest and investment in it, and every section completed opens up new fields for improvement, and from whence new sources of revenue may be derived.

It has been assumed that the tonnage westward will be largely in excess of the tonnage eastward. This theory, I am convinced, will not be practically sustained, after the great through line is fairly opened for business and in successful operation.

The cheap iron ores of Lake Superior, costing at the mines, say, three dollars fifty cents per gross ton, are transported by rail to the lake; thence by water say 600 miles, and by rail say 200 miles, (in all about 880 miles,) costing on an average ten dollars per ton, including everything, at points, for extracting and working the same; feeding a great number of blast furnaces; yielding 66⅔ per cent. of pure pig-iron, worth at this time say forty-two dollars ($42) per ton; supplying more than one-half the metal consumed by all the rolling-mills of northeastern Ohio and western Pennsylvania, and all of this trade has been created since 1858 or 1859.*

I am informed that the copper mines of New Mexico are now being succesfully worked. The ores are smelted, the cost of mining and smelting being about five cents per pound, the copper taken to Guaymas, Sonora, a distance of about 500 miles of land carriage, at a cost of seven cents per pound, thence to our eastern seaboard or Europe, at a cost of one cent per pound, thus making the

*For this information I am indebted to James J. Bennett, esq., who has been largely interested in the iron business of Pennsylvania and Lake Superior.

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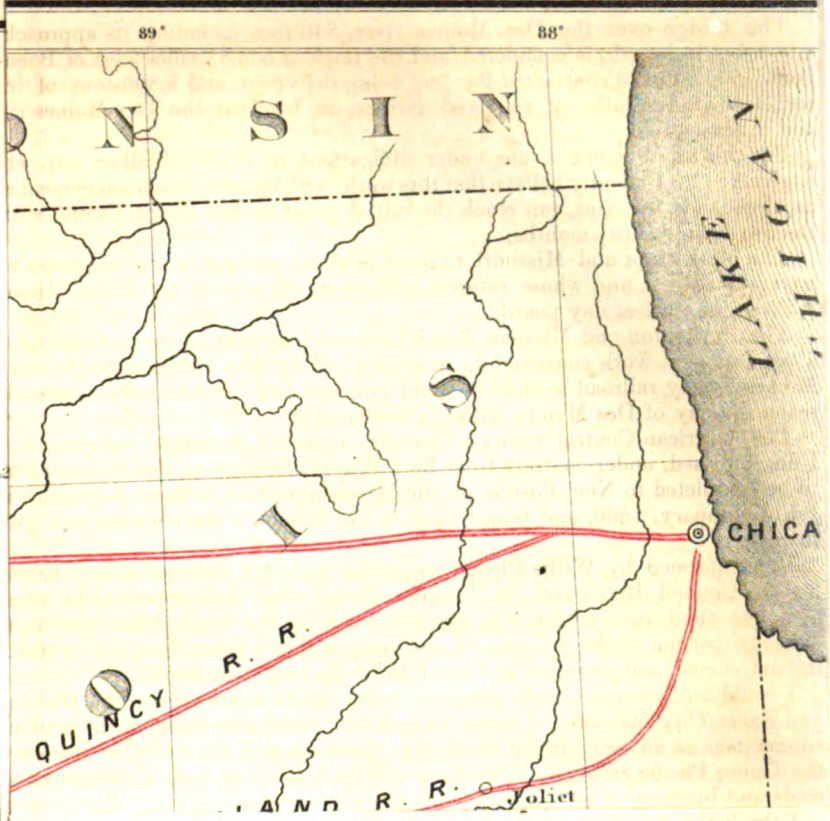

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actual cost of the refined copper, at the consuming points, about thirteen cents per pound, when the net cost of the Lake Superior refined copper, delivered at Pittsburg or New York, will now average from twenty-two to twenty-four cents per pound.*

I am also informed that silver ore is being transported by wagons from Nevada to San Francisco, a distance of about 250 miles, and thence is shipped to England for smelting.

It is, therefore, no great stretch of the imagination to believe that the tonnage of this great national highway will, at no distant day, consist largely of the precious ores (including copper) from the mineral districts of our western States and Territories to the eastern States, where cheap fuel, cheap labor, and improved machinery will be used for their smelting and refining.

The completion of this gigantic interoceanic enterprise within the time designated by the act of incorporation begins to assume a decided probability. It is worthy the efforts of the nation. We can now contemplate the early connection of the distant parts of our Union, the development of our rich mineral and agricultural domain, and the great benefits that must inure to the nation, borne down by new responsibilities.

I am informed by the vice-president that a geological examination of the country for the first one hundred miles on the company's lands is now being made by Professor Eggleson and his assistants.

In closing this report I desire to express my obligations to the consulting engineer and the several officers of the company on the line of road for their uniform courtesy and the information they promptly furnished me with. I also desire to acknowledge the kind and gentlemanly treatment I received from Thomas C. Durant, esq., vice-president, whom I accompanied to Omaha, whose heart, mind, and money have been devoted to the enterprise from its first inception.

The public-spirited gentlemen who are contributing so largely of their means in the prosecution of this work, which is destined to conduct a traffic of extraordinary magnitude, merit substantial returns on their investments.

I am, sir, very respectfully, your obedient servant,

SPRINGER HARBAUGH,
Government Director Union Pacific Railroad Company.

Hon. JAMES HARLAN,
Secretary of the Interior, Washington, D. C.

UNION PACIFIC RAILROAD COMPANY,
President's Office, 20 Nassau street, New York, August 30, 1866.

SIR: The undersigned, government directors, called to this city to attend a special meeting of the board, beg leave to submit a brief report, as preliminary to a full statement, after their return from a visit contemplated within a few days to Nebraska and the line of the road.

Since our last joint report two reports have been made at our instance, one by Jesse L. Williams and the other by Springer Harbaugh, which are hereby referred to as containing important information in relation to the current progress of the work. The first, by Mr. Williams, of the date of February 28, 1866, refers to the location, and contains an elaborate summing up of the extended surveys and explorations of the several corps of engineers down to the date of the report. The second, embracing the results of Mr. Harbaugh's ob-

*For this information I am indebted to Dr. Curtiss G. Hussey and Colonel James M. Cooper, of Pittsburg, pioneers in the copper and mineral business of our country.

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servations on the line of the road, contains valuable suggestions in regard to work at and near Omaha, its initial point.

These gentlemen were detailed by us for that duty, and their reports were approved and adopted by us as government directors.

It affords us pleasure to refer to the unexampled rapidity with which the work on the road has progressed down to this date.

On the 1st of April last only forty miles of track was laid. The following telegram, received yesterday, shows the present condition:

"OMAHA, *August* 27, 1866.

"T. C. DURANT, V. P., 20 Nassau street: Two hundred miles of track laid.

"S. B. REED, *Superintendent.*"

On no other road within our knowledge has so many miles of track been laid within the same period, with the single party working from necessity from only one end.

In respect to the work generally, we hope in a few weeks to have the means and data of presenting to you a further and more detailed report, based upon personal examination. Further preliminary surveys on the more difficult portions of the routes have been made during the present season, as seemed necessary to a full understanding of the responsible question of final location, but the results have not yet been reported to this office. The government directors have detailed of their number Jesse L. Williams to accompany the chief engineer of the company, Major General Dodge, and the consulting engineer, Colonel Seymour, on their proposed reconnoissance as far west as the Black Hills, where the heads of the several corps of engineers engaged in their explorations and surveys are expected soon to meet for comparison of results and for general conference. As soon as his report is received we will forward it to your office.

Respectfully yours, &c.,

SPRINGER HARBAUGH.
T. J. CARTER.
CHARLES T. SHERMAN.
J. L. WILLIAMS.
GEORGE ASHMUN.

HON. SECRETARY OF THE INTERIOR,
Washington, D. C.

OFFICE OF THE UNION PACIFIC RAILROAD,
Omaha, Nebraska, September 14, 1866.

SIR: The undersigned, government directors of the Union Pacific railroad, in accordance with our arrangements referred to in our report of September 1, proceeded to the line of road in Nebraska, and having made a personal examination of the work by passing over the road to the end of the track, submit the results in the following report:

The track is laid two hundred and twenty miles in running order from Omaha, with the necessary side tracks at convenient points. The grading is completed ready for the superstructure twenty-seven miles further, to the one hundredth degree of longitude, and the work is in rapid progress to the North Platte river crossing, and commenced forty miles beyond it. At this point the bridge is commenced, and the materials delivered for the early completion of that important work, in time for laying the track when it reaches that point. The contractors have iron, ties, and other material on the line of road to complete it over three hundred miles, which is expected to be finished the present year. There are now delivered at Omaha ninety miles of rails and about two hundred thou-

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sand ties, and four hundred thousand contracted for delivery there and along the track; also, contracts for two hundred and fifty thousand cedar ties from the tributaries of the Platte river, the delivery of which has commenced beyond the present track, and will save the transportation of them from the Missouri river.

At the terminus of the line at Omaha have been erected well arranged machine-shops and engine-houses of brick, sufficient for the wants of the road, with necessary tracks for the present business of the road, and can be extended as required upon the ample depot ground at the terminus of the line.

The rolling stock at present on the road consists of twenty locomotives, five first-class passenger cars, two baggage and mail cars, 142 platform cars, forty-six box cars, and thirty hand cars; also, six more locomotives are being built.

There are now being built, at the company's shops at Omaha, seven cars per week, and soon increased facilities will finish ten per week, while cars from other manufacturers are being delivered sufficient for the traffic and use of the construction as it progresses.

Substantial and commodious passenger and freight stations are erected at Elkhorn, Frémont, Columbus, and Kearney, and smaller houses at Shell creek and Lone Tree; also, passenger and freight stations are in course of construction at Silver creek, Grand island, and Wood river, and water stations have been built at convenient points along the line.

The permanent bridge of Loup Fork, fifteen hundred feet long, is in progress, with stone piers; one abutment and three piers now finished, and the whole will be completed at an early period this fall, thus dispensing with the temporary bridge now used to hasten the progress of the work.

The quality and present condition of the grading, masonry, bridging, and track completed we deem fully equal to a first-class road, and is constructed substantially according to the specifications and instructions agreed upon at the convention of government engineers, directors, and commissioners held in Washington in February last, and approved by the Secretary of the Interior; and will compare favorably with any western railroad for permanency and durability, while the alignment and gradients surpass any road of equal length in the United States, thus affording facilities for extensive means of transportation, as well as high rates of speed when required.

The character of the material composing the embankments is well suited to the purpose, requiring but little expense in repairs of track to keep it in perfect running order, and for practical purposes sufficiently ballasted. The cuts at some points will require other material for that purpose.

The surveys have been continued this season in the mountain region by efficient corps of engineers, the results of which are soon to be submitted to the chief and consulting engineers, who have gone to make a personal examination of the same on the line, and we deem it of much importance that a definite location should be soon made to commence work in that region, and with this view we have requested our colleague, J. L. Williams, esq., to accompany them; and he is now in the discharge of that duty, and upon his return will report the result of his investigations on that subject.

The rapid progress of the Union Pacific railroad renders it important that arrangements should be made at an early period to form suitable connections with the respective lines of railroad in progress in Iowa and Missouri, as it is confidently expected that early next season at least one line will be completed from Chicago by the Cedar Rapids line, and others are under construction; also, the line from St. Louis, by way of the Council Bluffs and Saint Joseph line; all of which will become important connections for traffic with this road.

This brings us to the consideration of the very important question of the most proper site and mode of forming these several connections across the Missouri river, in order to accommodate the various interests at minimum cost and satisfactory to all the parties, yet from our investigations have no doubt that it will

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be accomplished in some manner within reasonable expense at an early period, as the concentration of railroads at this point will of necessity combine these several interests, and insure a permanent and reliable connection to expedite the transfer of the traffic between the different lines of railroad.

In closing this report, we think it a cause of congratulation upon the commencement and rapid progress of this great national work. While the present is emphatically an age of inquiry and improvement, in no department has it made more advancement than in the facilities of transportation of persons and property, and none tending more to the development of the resources of the country and improvements in civilization.

This enterprise is greatly indebted in its inception, organization, and progress to the sagacity of distinguished statesmen, combined with capitalists, energetic contractors, efficient officers and engineers, who have and are devoting their means and energies to press forward this work at a rate unexampled in the history of railroad construction.

The United States government has acquired a new claim to the gratitude of the people by delegating to a company the duty of constructing and managing this great work of national improvement, and in aiding it by the public credit and grant of lands. Thus the enterprise will enjoy the benefit of a permanent direction, and can be prosecuted with vigor on a systematic plan to ultimate completion, forming a continuation of the great system of railroads, commenced at the Atlantic and to be continued at an early day to the Pacific, affording not only facilities for commerce along the line, but a magnificent highway for interchange of products among the nations of the world.

Respectfully submitted:

T. J. CARTER,
CHARLES T. SHERMAN,
SPRINGER HARBAUGH,
Government Directors Union Pacific Railroad.

Hon. O. H. BROWNING,
Secretary of the Interior, Washington, D. C.

DENVER, COLORADO TERRITORY,
October 2, 1866.

SIR: In the communication which I had the honor to make from this place on the 21st ultimo, respecting the Berthoud pass, reference was made to a contemplated reconnoissance over the experimental lines surveyed for the Union Pacific railroad across the Black Hills. On the 25th ultimo I left Laporte, at the eastern base of the mountain, in company with Major General Dodge, chief engineer Colonel Seymour, consulting engineer, and Mr. James A. Evans, under whose immediate charge these preliminary surveys were made. Having with us the maps and profiles in addition to the personal knowledge possessed by these officers, facilities were afforded for obtaining the fullest acquaintance with the routes and their relative advantages possible in so short a time.

Cache la Poudre route over Antelope pass.

This line, as now revised, diverges from the Cache la Poudre creek some eight miles below the mountain, and following the valley of Pitchfork creek, enters the mountain eight or ten miles north of Laporte. Striking the line in this valley a few miles from the plain, we followed it closely over the summit at the head of this stream and into the valley of Stonewall creek, a branch of Dale creek; thence through Stonewall cañon and up the valley of Dale creek in a northwestern course to the dividing ridge between its waters and those of

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Laramie river, crossing this divide at Antelope pass. The valley of Dale creek is the peculiar feature in this part of the mountain range; taking its rise in the higher part of the range near Cheyenne pass, and rather on the western slope, it pursues a southeastern course for over thirty miles, cutting through the range and joining the Cache la Poudre three miles above the eastern base of the mountain; thus opening a practicable route for a railroad, as it has heretofore afforded a favorable passage for the overland stage route. Having reached the western slope, we followed the line of survey to the base of the mountain in the Laramie plains, a distance of only six miles from the summit. Thence following near the line of survey over the Laramie plains some ten or twelve miles, we reached the United States fort John Buford, near the crossing of Big Laramie river, in Dakota Territory.

Here it is proper to notice the marked kindness shown to our party by the commandant of the fort, Colonel Mizner; during the day we remained for rest and outfit. In view of recent Indian depredations along the return route, General Dodge had been furnished by the commandant of this military department with an order for a sufficient escort from the forces here, which was promptly placed under the general's orders.

Lodge Pole and Crow Creek route over Evans's pass.

Returning to the common point of junction of the two lines at the western base of the range, our party ascended the western slope, following a second experimental line bearing more to the north, crossing the valley of Dale creek on the range and near its source; and thence over the crest of the mountain at Evans's pass. Descending the eastern slope, this line follows a ridge forming the divide between Lone Tree creek on the south and Crow creek on the north, and reaches the eastern base of the mountains about forty miles north of Laporte, from which it continues easterly to the valley on Crow creek on the plains. After examining with care these two lines, we returned to Laporte on the 1st instant, having travelled on horseback one hundred and fifty miles.

The chief engineer expects to close the surveys bearing upon the question of location across the mountains, and submit his report to the board within the next four or six weeks. Without entering into the engineering characteristics of the several routes, which, in advance of that report, would be premature, I may now say, for the information of the Secretary of the Interior, that General Dodge expresses a confident expectation of being able, without great expense, to reduce the maximum grade over the mountain range considerably below the limit allowed by the Union Pacific railroad act. The importance of such reduction is so manifest that I have not failed to urge it within reasonable limits of cost.

Very respectfully,

J. L. WILLIAMS,
Government Director.

Hon. O. H. BROWNING,
Secretary of the Interior.

UNION PACIFIC RAILROAD OFFICE,
New York, November 23, 1866.

SIR: The preliminary surveys across the first range of the Rocky mountains being nearly completed, the government directors deemed it important that one of their number should personally examine such of the lines as appeared most feasible. Accordingly, at the request of my colleagues and by invitation of Colonel S. Seymour, the consulting engineer of the company, I accompanied

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him to the mountains in September last. At Omaha we were joined by General G. M. Dodge, chief engineer, and in passing over the several routes were further aided by explanations on the ground by the division engineer, under whose immediate direction the survey had in each case been made, with the advantage also of the maps and profiles. Under the requirements of the 13th section of the act of Congress, approved July 2, 1864, I respectfully submit for the information of the Secretary of the Interior, the following general results, premising that this report has been submitted to my colleagues and sanctioned by them:

This first mountain barrier, as it stretches north and south across the general course of the road, between the 105th and 106th meridian of longitude, may be described as extending from the cañon of the South Platte, near the latitude of Pike's Peak, to the point where it is cut through by the North Platte, a distance of near three hundred miles. Its more southerly and higher portion, called the Snowy range, or Rocky mountains proper, forms part of the great circle of the continent, separating the waters of the Platte from those flowing into the Colorado of the West. The northern section of this mountain barrier being a part of the subordinate range known as the Black Hills, and only dividing the drainage of the two forks of the Platte, is, nevertheless, as to direction, the continuation of the main Rocky mountain range northward, possessing the same mountain characteristics, though having less altitude and gentler slopes. The Cache la Poudre river, the largest tributary of the South Platte, taking its rise in its most southerly branch near the heights of Long's Peak, marks the point of division of the range into the two sections here described.

The water-shed of the continent diverges here to the northwest, forming first the southwestern boundary of the North Park, and thence, continuing northwest, sinks into the depression known as Bridger's pass, where it is 7,534 feet above the level of the sea, and 3,892 feet lower than at Berthoud pass in the Snowy range west of Denver.

Up to the eastern base of this north and south mountain range, the broad and generally smooth plain of the Platte valley opens favorable approaches, through its several tributaries, to any mountain crossing that may be selected. The point of crossing the mountain is therefore the problem first to be solved.

In the wide range of these surveys, continued now through three years, ten distinct points of crossing have been examined. They have been run with level and transit, in all cases affording reasonable hope of practicability; or, where less promising, they have been explored with care, availing in such cases of barometrical observations. The passes thus examined include, as it is understood, all that have been suggested by mountaineers or others familiar with the country as *possibly* feasible. Enumerating from south to north, they may be briefly described as follows:

Route No. 1, *over Hoosier pass at head of the South Platte.*

Mr. F. M. Case, civil engineer, reports to the vice-president, December 15, 1864, that he made a survey of the governing sections of this route, and submits profiles. First, of the mountain range at Hoosier pass; second, of a line eighteen miles northwestward down Blue river, a tributary of the Colorado; and third, of a line run 48 miles southeastward from the pass down the upper portion of the South Platte, through the South Park to the head of the Platte cañon. From the head of this cañon, as he reports, the line would follow the river northeastward some 40 miles, through the mountain to the plains with, as estimated, an average descent of 70 feet per mile. Of this distance the engineer estimates that 20 miles would be close cañon, both walls being washed by the stream, and the direction so circuitous as to require considerable tunnelling. His estimate of the height of this pass above the sea, from barometrical obser-

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vations in the vicinity, is 11,500 feet. A tunnel of two and a half miles through granite is required. Grade line of tunnel upon the assumed level 10,660 feet above the level of the sea.

The general alignment of this route is so unfavorable, considering Salt lake as the point aimed at, as, in the judgment of the engineer, to render a more extended survey needless—145 miles of road being required between Denver and the mouth of Blue river, only 76 miles west of the meridian of the former place.

Route No. 2, over Tarry-all pass.

This route, it seems, did not so commend itself to the engineer as to require a survey. He estimates the pass to have about the same altitude as Hoosier pass —11,500 feet above the sea. The approach to it from the plains on the east would be, first, through the cañon of the South Platte for some 25 miles, and thence up Tarry-all creek, a branch of the Platte, to its source in the range a few miles northeast of Hoosier pass. From the west the approach would be from the valley of the Blue river above Breckinridge, through the Indiana gulch. While the engineer does not assume to speak of this route advisedly, he thinks the summit could not be reached from the east without exceeding the maximum grade of 116 feet per mile, and that the descent of the gulch on the west is 150 to 200 feet per mile. Having made no definite survey, he does not give the length of the tunnel.

Route No. 3, through the north fork of the South Platte.

As in the case last described, Mr. Case deemed a critical survey of this route unnecessary. He says in his report that it would enter the mountains at the mouth of the South Platte cañon, being thus coincident with the two last-named lines for ten miles, and thence up the north fork of the Platte 35 miles, crossing the range still further north than the route last described, and connecting on the west with one of the head branches of Snake river, an affluent of Blue river. This pass was represented to the engineer by a reliable explorer, as being a little below the line of arborescence or "timber line," and was assumed as about 11,500 feet above the sea. Upon this hypothesis, and with the aid of barometrical observations in the vicinity, the engineer estimates that on the eastern approach to the summit some 2,300 feet elevation must be overcome in 12 or 15 miles, and on the western approach 2,700 feet in 20 miles. How far this could be alleviated by a tunnel, and what would be the length of the tunnel, is not stated. The entire route from the plains on the east to the valley of the Blue river on the west is reported as running through a narrow mountain valley in many places tortuous.

It will be noticed that the two routes last described, entering the mountain, as they do, far to the south, through the cañon of the South Platte, are, like route No. 1, forced out of the proper directions

Route No. 4, over Berthoud pass.

From the beginning of these investigations this route has attracted much interest, as well from the general belief of mountaineers that it was the most favorable pass through the Snowy range as from its locality, being in the direct course from Denver to Salt Lake City, the two chief points on the route, both of which it is important to pass. In the summer of 1862, prior to the first meeting of the corporators of the Union Pacific railroad at Chicago for the purpose of organization, Mr. F. M. Case, at the instance, and I believe at the expense, of the friends of the work in Colorado, made what he called an instrumental reconnoissance of this route. His report, addressed to honorable John Evans, then governor of Colorado territory, was embodied in his subsequent official report of December 15, 1864. Subsequently, in 1866, by direction of this board, a sec-

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ond and more careful survey of this route was made by Mr. P. T. Brown, one of their engineers. In the general topographical facts the two surveys agree. I passed over this line as far as the summit of the range, accompanied by Colonel Seymour and Mr. Brown.

The line from the South Platte at Denver to the summit of Berthoud pass is 60 miles in length. The survey was extended west into the Middle Park, 78 miles from Denver, in the direction of Salt lake. For general description it naturally divides as follows:

First. Denver to Golden City, 14½ miles. This is over a rolling and rapidly rising plain, falling into Clear Creek valley, six miles east of the mountain, and meeting the foot of the range 12 miles from Denver. Ruling grade 116 feet per mile, of which there is about three miles. Construction not very expensive.

Second. Golden City to the upper end of Clear Creek cañon 15¾ miles. Golden City is at the transition point from the sedimentary to the granite formation. Here the line enters Clear Creek cañon, which extends 15¾ miles, rising in this distance 1,544 feet. Through a portion of the cañon the valley rises faster than the maximum grade; but with careful location and heavy cost Mr. Brown thinks the grade need not exceed 116 feet per mile at any point. Two-thirds the distance will be curved; much of it sharp. The greater part of the distance may be called close cañon, and a part narrow, open cañon, with abrupt slopes.

Third. From the head of cañon to east end of Berthoud tunnel, 28½ miles, the line follows the narrow mountain valley of Clear creek, through the midst of the gold-mining developments, passing many quartz mills. Ruling grade 116 feet per mile, of which there will be about 13 miles. For seven or eight miles of the upper portion the fall of the valley greatly exceeds the maximum grade, reaching in places over 300 feet per mile. Using the maximum grade of 116 feet per mile from the tunnel eastward, the line is necessarily thrown on the steep, rocky, and in places precipitous mountain sides, at an elevation of 100 to 400 feet above the creek, involving, of course, very heavy cost. In the whole distance, from the base of the mountain to the tunnel, Clear creek, as Mr. Brown supposes, would be bridged perhaps twenty times, with probably two to three miles of tunnelling through sharp points. To give greater length of line, for the purpose of reducing the grade to the maximum prescribed by law, the surveyed route, in ascending, turns up South Clear creek for 2½ miles, thence by a short tunnel through a ridge into Bard's Creek valley, which it follows down, reaching the main valley at Empire City.

Fourth. Berthoud tunnel would be $3\frac{1}{10}$ miles long, and pierces the mountain 1,364 feet below the summit of the pass. The material to be excavated, the common granite of the mountain. Grade line in the tunnel at the highest point is 10,100 feet, and summit of pass 11,426 feet above the sea.

Fifth. West end of the tunnel to end of survey, 16½ miles. Descending westward, the slope of the mountain is followed for some distance until the valley of Moses creek is reached, which is the tributary of the Colorado, and thence with this valley to the Middle Park. Grade 116 feet per mile for first 11½ miles. I did not pass over this portion of the route.

Route No. 5, over Boulder pass.

While standing on the mountain peaks near Berthoud pass, on the 18th of September, in the clear mountain atmosphere, I had a full view of the Boulder pass, twelve miles further north. From its apparent height above the growth of timber, and from barometrical observations before reported, I was fully convinced of its impracticability; yet, in deference to the views of gentlemen having mining interests on the Boulder, I fully intended visiting that pass, but a fall of eight inches of snow on the 19th on the eastern slope, which I learned was two feet deep at the western base of the range, defeated this purpose. A few weeks

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later Mr. Brown made a survey of the Boulder route. The chief engineer reports the results as follows:

First. That the pass is 11,700 feet above the sea.

Second. A tunnel of six miles required.

Third. The approach is through either South Boulder or Middle Boulder creeks, on either of which the ascent is too rapid for the maximum grade; and

Fourth. That on either of these streams expensive cañons are encountered.

Route No. 6, up the Cache la Poudre and Dale creeks, over Antelope pass.

During the last week in September I made a reconnoissance on horseback over this route from the eastern base of the mountain at Laporte to the western base of the Laramie plains, at the common point of junction with Lodge Pole and Crow Creek route, in company with the chief engineer, the consulting engineer, and Mr. James A. Evans, division engineer, whose three years' service in directing these experimental surveys has made him familiar with the topography of this range.

Antelope pass is a depression in the ridge separating the waters flowing into the Laramie river on the west and those of Dale creek, a tributary of the South Platte. Dale creek, taking its rise near Cheyenne pass, runs in its upper section on the western slope of the range, cutting the main range of the Black Hills in its southeasterly course, and joins the Cache la Poudre river some three miles above the eastern base of the mountain. Through the Dale Creek valley a favorable route is found from the Cache la Poudre, near Laporte, to Laramie plains, in a northeastern direction, finding its summit, not in the main Black Hill range, but in the subordinate divide between Dale creek and Laramie river. This ridge or divide is crossed at Antelope pass, which has 195 feet less elevation than the main range at Evans's pass, in the direction of Crow creek and the Lodge Pole.

The opening thus cut through the mountain range by Dale creek, and which has heretofore been used as the overland stage route, the railroad survey now occupies. The main features of this line are these: Total length of mountain section from eastern to western base, 39½ miles, of which 33 miles is in the ascent of the eastern slope, and 6½ miles on the western slope. The western slope, and also the first 7½ miles of the eastern ascent from the plains, following up Pitchfork creek, is chiefly in the secondary formation, and presents a comparatively favorable profile. On these two sections the line may be located with a maximum grade of from 85 to 90 feet, without expensive work. The intermediate section of 25 miles, all in the valley of Dale creek, and in the granite formation, presents some expensive grading, especially near the crossing of Dale creek, and also near the cañon of Stonewall creek, where the line of transition between the stratified and granite formations is crossed. Three bridges of some magnitude are required on this division, the chief of which is over Dale creek, near four hundred feet long. The deepest part of the narrow chasm here to be bridged is 168 feet below grade line. As the line now runs the maximum grade occurs frequently, with occasional undulations, by which ascent is lost. With the time and care needful on a final location, the ruling grade may be reduced below the limit allowed by law, and probably to 105 feet or 110 feet per mile, and the undulations chiefly if not altogether avoided. The grade line at Antelope pass, without a tunnel, and with a cut of moderate depth, is 8,045 feet above the sea.

The approach to this passage of the Black Hills is up the valley of the South Platte to the mouth of the Cache la Poudre river, and thence up that valley to Pitchfork creek, some eight miles below Laporte, which latter tributary is followed to the entrance of the Black Hills. The whole route east of the mountain is of the most favorable character, permitting a grade uniformly ascending with the rise of the valley.

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Route No. 7, following the divide between Crow creek and Lone Tree creek to Evans's pass.

Returning eastward from Fort John Buford, on the Laramie river, to which point our party had extended their reconnoissance, in part to obtain a military escort which General Dodge deemed a prudent precaution against Indian depredations on the Lodge Pole, we crossed the Black Hills by the Lone Tree and Crow Creek Divide route, which we followed to a point near the travelled road from Denver to Fort Laramie, and thence to Laporte along or near the eastern base of the range.

As the route last described finds an easy ascent of the mountain through the valley of Dale creek, so this route, by following the smooth and gently ascending ridge, dividing the drainage into Crow creek on the north and Lone Tree creek on the south, which ridge extends far out into the plains, occupies a favorable locality for crossing the Black Hills more exempt from obstructions by snow-drift than ordinary lines. This ridge can be approached from the valley of Crow creek through a small east and west tributary, rising at the rate of from thirty to sixty feet per mile. Reaching the divide, seven miles east of what appears to be the general course of the base of the range, the line pursues it for twenty miles, to the summit of the Black Hills, at Evans's pass. For the first seven miles this divide presents a smooth profile. Entering a little west of this the granite formation the next five miles presents a rough profile, on which the work will be heavy, and the material in great part rock. The next eight miles, to the pass, is on the summit, or on the adjoining slopes of the divide, with a favorable profile and alignment, and comparatively light work. Where excavation is required to any considerable depth it will be rock. The experimental line up this eastern slope of the mountain is laid with a ruling gradient of 106 feet per mile. But the chief engineer is confident that this can be reduced on a final location to the maximum of ninety feet per mile, which is less than the grade of the Pennsylvania Central railroad in the ascent from Altoona to the tunnel, with curvature very much easier than is there introduced. The summit of the mountain presents here a broad and gently rounded surface, admitting of no reduction by any judicious tunnelling. With an open cut of moderate depth through rock the grade line is 8,242 feet above the sea.

Descending westward the profile is less favorable. Dale creek, heading a few miles north, near Cheyenne pass, has worn a valley in the western slope which can be crossed only by an embankment and bridge of considerable height; and after reaching the secondary summit, between this creek and the Laramie plains, the descent thence to the common point of junction with the line over Antelope pass, at western base of mountain, is here more abrupt than on that route. A careful resurvey of this western slope, 10¼ miles distance, is proposed by the chief engineer, under the belief that he can, within reasonable limits of cost, establish a ruling grade not exceeding ninety feet per mile, as on the eastern slope, and at the same time avoid any depression of grade in the intermediate valley, below the summit, west of Dale creek. So important is it that on these mountain ascents elevation once obtained be not lost by injudicious undulations, that I have not failed, as a member of the committee on location, to urge this view.

To reach this crossing of the Black Hills the line would leave the South Platte at Julesburg, following up the valley of Lodge Pole creek 106 miles, and thence bearing a little southward through a southwestern tributary, cross the divide to Crow Creek valley.

Route No. 8, via Lodge Pole, Camp Walbach, and Crow creek.

This route, like the Cheyenne Pass line, finds its approach to the Black Hills through the Lodge Pole valley to Camp Walbach at the base of the range, and

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its route thence up the mountain slope is coincident with the Cheyenne Pass line to the crossing at Lodge Pole creek; thence diverging to the south, it pursues generally the divide between the drainage to Lodge Pole on the north and Crow creek on the south. It crosses the summit of the range at Evans's pass, there intersecting route No. 7, and having, of course, the same gradient, to wit, 8,242 feet above the sea. But before reaching this pass, in traversing the uneven surface on the mountain tributaries of Crow creek, this line encounters a higher country, over which the gradient reaches the height of 8,400 feet above the sea. The descent of the western slope is coincident with route No. 7.

Previous to the examinations made in 1866 this was considered the shortest practicable route over the Black Hills, and it is the route compared with the Cache la Poudre line in the report which I had the honor to make to the department, dated February 28, 1866. But the investigations of the last season, under the direction of General Dodge, chief engineer, whose knowledge of this region, acquired during his command of this military department, has been of great service to the company, have resulted in the discovery of route No. 7, which, by leaving the Lodge Pole far out in the plains, finds a more direct alignment, and in all respects a better line.

Route No. 9, *via Lodge Pole creek and Cheyenne pass.*

The Cheyenne pass over the Black Hills, in connection with the Lodge Pole valley as its eastern approach, has long been a thoroughfare for travel, and was thus from the beginning brought prominently to the notice of those seeking a route for the Pacific railroad. In the fall of 1863 a line of levels was run over this pass by Mr. B. B. Brayton, engineer. Again, in the summer of 1864, a more careful survey was made by Mr. Evans. The general results of Mr. Evans's survey are:

First. That the summit of the pass is 8,656 feet above the sea.

Second. That a tunnel, 1,500 feet long, through granite, on a grade line 8,540 feet above the sea, would be required.

Third. That this tunnel could be reached from the east by way of Camp Walbach, with a maximum grade, probably, not exceeding 116 feet per mile; and

Fourth. That on the western slope of the mountain, the ruling grade could not be reduced below 132 feet per mile, unless by the objectionable expedient of increasing the length of the line by switching.

Route No. 10, *through Laramie cañon.*

Knowing that this stream had cut its channel deep through the Black Hill range, thus presenting, by its immediate valleys, a more uniform ascent, and a total rise and fall between the Platte valley and the Laramie plains, materially less than by other routes crossing *over* the range, and, further, that this route would occupy a good general direction, the character of its great cañon has been an object of interest from the first. In 1864 Mr. Evans commenced the examination, but accomplished it only on the lower portion.

In 1865 Mr. Case explored, without instruments, the upper portion. But until Mr. Evans, in his second attempt, in 1866, succeeded in running a line entirely through this cañon, it is not probable that any human being, savage or civilized, ever passed through the whole length of this deep and rugged gorge. Its direct length is 14 miles; its length by the survey, 25 miles; its course in many places very tortuous; and its vertical walls of rock from 500 to 1,500 feet in height. The fall of the stream in places is from 150 to 200 feet per mile, and its current, of course, extremely rapid. It is wholly impracticable for railroad purposes.

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The route up the North Platte, and through the South pass, has been followed by the travel from the earliest beginning of emigration across the continent. The North Platte, like the Laramie, but with a still larger flood, has worn its channel through the range, presenting, unquestionably, if it could be followed, an easier and more uniform grade from the plains to the divide of the continent at the South pass, than any other route. Its greater length, however, caused by its northern circuit, its wider divergence from the important mining resources of Colorado, in which the nation has an interest, with the apprehension of deeper snows in the region drained by the Sweet Water, precipitated there through the directing influence of the Wind River Mountain range, seem to have outweighed, in the judgment of the company and their engineers, any supposed advantage in grades. The survey of this route, though commenced in 1865, near Fort Bridger, and extended eastward through the South pass and a short distance down the Sweet Water, by Mr. S. B. Reed, one of the company's engineers, was not continued through the Black Hills. The engineers, from their reconnoissance and information from others, report narrow defiles and cañons where the North fork cuts the mountain range, so formidable as probably to force the line out of the valley, and over mountain spurs; but the length of this difficult construction, as also the exact camparative length of the North Platte route, is unknown. The water-shed at the South pass is 7,470 feet above the sea. It is 64 feet lower than the same dividing ridge of the continent at Bridger's pass, 100 miles to the southeast, and 3,956 feet lower than Berthoud pass, west of Denver.

Comparison of routes.

Grouping the ten routes thus briefly described into two classes, five of them cross the Snowy range, and five the Black Hill range.

Of those in the Snowy range, examinations indicate the Berthoud pass, designated No. 4, as having most of the elements of a feasible line.

Contrasting the Berthoud Pass line with the two available lines over the Black Hill, either Lodge Pole and Crow Creek line, over Evans's pass, designated as route No. 7, or the Cache la Poudre line No. 6, the comparison is greatly against the Berthoud, as follows:

First. At Berthoud pass the grade line is 10,100 feet above the sea; at Evans's pass, 8,242 feet. Difference in the elevation, to be overcome with the commerce of the country, 1,858 feet.

Second. Tunnel at Berthoud pass, three and one-tenth miles long. As the summit of the pass rises near 1,300 feet above the level of the tunnel, the material excavated would be chiefly passed out at the ends. Under these circumstances, not less than three or four years, certainly, would be required for its construction, within which time, it is confidently believed, the track-layers from Omaha, by a more favorable route, may meet those from Sacramento, on the plains of the Humboldt river. No estimate has been made of its cost. Unquestionably, the outlay of capital would be greater than is warranted at a single point, be it from national or individual means, when the same capital and labor would stretch out the road so far toward the Pacific, over the cheaper routes that offer. At either of the two Black Hill passes no tunnelling is required.

Third. Besides Berthoud tunnel, there would be 15 miles in the Clear Creek cañon, and 10 miles in the upper section of Clear creek, which would cost perhaps beyond all precedent in this country. Contrasting the aggregate of the tunnel and this 25 miles with same length of mountain work on the Lone Tree and Crow Creek Divide route over the Black Hills, and the difference would grade more than 100, perhaps 150, miles of average line between the Black Hills and Salt Lake.

This comparison, thus stated in very general terms, is confined to the first

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mountain range, as if beyond that the extension of the two routes to Salt Lake were alike feasible. Such, however, seems not to be the case.

In June, 1865, Mr. Reed, under instructions from F. C. Durant, esq., vice-president, and with a view to a line across the intermediate Green River basin, made an extended reconnoissance of the country east of the Utah lake, to find, if possible, a practicable route over the Wahsatch mountains to Green river, *via* Spanish Fork and the Uintah river. His report, dated April, 1866, represents that there is no route practicable for a railway from Utah lake eastward to Green river, through the Uintah valley. We have seen that the eastern rim of the Green River basin cannot be crossed without an expense and delay quite too great, and if the Snowy range could be crossed the chief engineer expresses the belief that two subordinate north and south ranges would interpose further west. The basin of the Green river, and especially its main valley, the White river, running from east to west, near the fortieth parallel, has been represented as much more favorable to agriculture, with better supply of timber, than the country along the Bridger Pass route, having less altitude by some two thousand feet, and lying two degrees further south; this claim is no doubt just, and it is to be regretted that access for the railroad seems forbidden by the great height of the mountains forming its eastern and western boundaries.

But were this route practicable, yet in the aspect of gradients, it would be much less favorable than the Bridger Pass route, the mountain ranges being higher and the intermediate valley lower. Green river, where this line would cross it, must be some two thousand feet lower than on the Bridger Pass route, while the Snowy range, over the Berthoud pass, is near two thousand feet higher than the Black Hills, making a total difference of some four thousand feet in the ascent to be overcome between Green river and the summit of this most easterly mountain range.

In whatever aspect this important question may be viewed, whether in the detail of actual surveys and levelling or in a general grasp of the leading features of this part of the continent, there can be no question but that the Union Pacific Railroad Company, in deciding to locate over the Black Hills and through Bridger's pass, have but conformed to the controlling topographical shaping of the region to be traversed by the road.

Having thus presented the engineering characteristics of the Berthoud Pass route across the Snowy range, in contrast with the two available routes across the Black Hill range, showing conclusively that the former does not enter into the comparison, it remains to compare the two available Black Hill routes with each other.

Taking the entire division between the mouth of the Lodge Pole, opposite Julesburg, on the east, where the lines diverge, and their point of intersection at the western base of the range in the Laramie plains, the facts bearing upon the comparison are as follows:

1. Length of line by Cache la Poudre and Antelope pass, 216 miles. Length by Lodge Pole and Crow creek over Evans's pass, 179 miles; difference 37 miles in favor of the Lodge Pole route.

2. The greatest altitude reached by the grade line on the Cache la Poudre route is 8,045 feet above the sea. On the Lodge Pole line, 8,242 feet. Difference against the Lodge Pole route, 195 feet.

The ruling mountain gradient, which limits the road over the two routes respectively, will be fifteen to twenty feet per mile less on the Lodge Pole than could be obtained on the Cache la Poudre line, giving to the former a very important advantage.

3. Length of expensive mountain line across the range, by the two routes respectively, is by the Cache la Poudre 39¼ miles; by the Lodge Pole 23¼ miles.

This difference is on the eastern slope, and results from the greater elevation

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of the plain at the eastern base of the mountain, in the vicinity of the Lodge Pole, Crow, and Lone Tree creeks, by near two thousand feet than where the deeper valley of the Cache la Poudre meets the mountain slope. Besides the cost of constructing the extra length of line by the Cache la Poudre, it may be safely assumed that the Lodge Pole line will cost far less per mile than the other.

4. The commercial bearing of the question should not be overlooked. Though the topography of this mountain region forbids the passage of this national thoroughfare directly through the mining region of Colorado, yet the transverse valleys favor a connection by branch. The interests of the company of Colorado and of the nation seem alike to demand such connection. Adopting the Cache la Poudre route, the proposed branch, as already surveyed along the South Platte to Denver, would be 53 miles long, or by the Lodge Pole the branch would be lengthened to 112 miles, but the main line shortened 37 miles. The paramount claims of through commerce seemed to the board to give preponderance in the aspect of commercial considerations to the short main line.

5. The fuel question also enters into the comparison. Coal is found at many points along near the base of the mountain, between the Cache la Poudre and the branches of the Arkansas. North of the Cache la Poudre, though it may exist, the swell of the plains before described has covered it beyond our reach. Coal is also found east and northeast of Denver, on Coal creek, Kioway creek, and other tributaries on the southern slope. The chief engineer reports that he has discovered coal northwest of the Platte on Crow creek and Lone Tree creek, but far out from the base of the mountain. From this outline of the coal field, it will be seen that the Cache la Poudre line passes through or near it, while the Lodge Pole line runs some thirty miles north of it. The proposed branch to Denver would make it available for either route. If this South Platte coal field be passed by, we are not assured of any coal on the line of the road between the western slope of Iowa and Rock creek, beyond the Laramie plains, a distance of about 650 miles, though possibly it may yet be found intermediate by further search or by shafting.

In the distribution of duties among the government directors, the supervision of the location has fallen to the undersigned, and to that I have chiefly given my attention. Very thorough and extended surveys of the country, of which heretofore so little was known, have been urged, and in this the company has expended much time and means. The advantage is apparent, for the very favorable route across the Black Hills—certainly with easier gradients and of much cheaper construction than was expected—was only discovered, with its connections, by the third year's survey. The road is now permanently located as far west as Laramie river, 576 miles from the Missouri. The next section requiring very critical examination is the Medicine Bow range, the spurs of which cross our route. Within the next year the location may be established to Salt Lake City, now ascertained by the shortening of the line over the Black Hills to be about 1,032 miles from Omaha.

This report was prepared soon after my return from the mountains, from personal observation and facts politely furnished by the engineers, but delayed so that the levels and distances might be corrected from the official report of the chief engineer, only yesterday presented to the board. All which is respectfully submitted.

J. L. WILLIAMS,
Government Director Union Pacific Railroad

Hon. O. H. BROWNING,
Secretary of the Interior.

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Altitude of various points west of the Missouri river.

	Feet above the sea.
Missouri river at Omaha	968
Columbus station, Union Pacific railroad	1,458
Kearney station, Union Pacific railroad	2,128
One hundreth meridian	2,514
North Platte crossing, near its mouth	2,790
Julesburg (mouth of Lodge Pole creek)	3,513
Latham (mouth of Cache la Poudre creek)	4,600
Mouth of Crow creek	4,534
Laporte	5,050
Denver	5,302
Golden City, Colorado	5,854
Head of Clear Creek cañon	7,398
Lodge Pole Creek junction	5,262
Crow Creek crossing	6,019
Evans's pass	8,242
Cheyenne pass	8,656
Antelope pass	8,050
Berthoud pass	11,426
Boulder pass	11,700
Bridger's pass	7,534
South pass	7,870
Sibyl's pass and Black Hills	7,020
Camp Walbach	7,040
Fort Laramie	4,250
Laramie river at mouth of Laramie cañon	4,800
Laramie plains at junction of railroad surveys on Laramie river	7,175
The end of the line in Great Salt Lake City	4,285
The mouth of Weber cañon	4,654
The Devil's Gate in Weber cañon	4,894
The Weber valley at the mouth of Echo cañon	5,535
The Weber valley at the mouth of Chalk creek	5,645
The summit at the head of Chalk creek	7,834
The summit at the head of Echo cañon	6,879
The surface of water in Bear river on Chalk Creek line	7,503
The surface of water in Bear river on Echo Cañon line	7,045
The summit between Bear river and Muddy, the rim of Great Salt Lake basin	7,567
In the valley of Muddy, near the overland stage station	7,067
The surface of water in Black's Fork, two miles below the mouth of Muddy	6,375
The surface of water in Black's Fork, twenty miles below the above	6,257
The summit between Black's Fork and Green river	6,460
The surface of water in Green river	6,245
The summit between Green river and north branch of Bitter creek	7,175
The Bitter Creek valley at the junction of Mr. Evans's line	6,315
The end of the line in Quilla valley	4,243
At the point of the West mountain	4,267
The surface of water in the Jordan river at the Narrows	4,522
In the Timpanogos valley at the mouth of the cañon	4,892
In the Timpanogos valley at Kamas prairie	6,391
On Kamas prairie	6,667
The surface of water in Weber river at the north end of Kamas prairie	6,340
The mouth of Chalk creek in Weber valley	5,645

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North pass of Cedar mountains	4,604
Great American desert	4,480
Reed's pass of Humboldt mountains	6,125
Humboldt river	5,228

FORT WAYNE, *Ind., December* 1, 1866.

SIR: On the 23d November I had the honor to forward to you from New York a report of my late reconnoissance over the preliminary lines run for the Union Pacific railroad across the first mountain range.

At that date the important subject of definite location was before the committee on location and construction, by reference to them of the chief engineer's report, the question having been virtually narrowed down to the two available routes over the Black Hill range.

I now report that the committee, after mature deliberation, recommend the line designated in my descriptive report of the 23d ultimo, as "*Route No. 7, following the divide between Crow creek and Lone Tree creek over Evans's pass,*" and that this route was unanimously adopted by the board of directors. Its leading advantages over the Cache la Poudre route are, the saving of distance, 37 miles, lower maximum grade by 15 or 20 feet per mile, lighter grading, facilitating the rapid extension of the track, and less obstruction from snow drifts, following as it does, on the eastern slope, a ridge instead of a valley.

The line adopted, in its approach to this mountain, leaves the South Platte at Julesburg, following up the valley of Lodge Pole creek 106 miles, and thence, bearing a little southward, crosses the Black Hills some ten or fifteen miles south of Cheyenne pass.

Respectfully submitted:

J. L. WILLIAMS,
Government Director Union Pacific Railroad.

Hon. O. H. BROWNING,
Secretary of the Interior.

OFFICE UNION PACIFIC RAILROAD COMPANY,
New York, January 7, 1867.

SIR: The regular quarterly meeting of the board of directors of the Union Pacific Railroad Company was held last week, and the undersigned, government directors, submit for your information, on the condition and progress of the road, the following report:

Referring to the report of the government directors of September last, it was stated that our colleague, J. L. Williams, esq., was then making an examination, with the chief and consulting engineers of this company, of the lines surveyed in the Rocky Mountain region, and his report on that subject has since been made and filed in your department.

The board of directors have adopted the location of the route via Lodge Pole creek, over the Rocky mountains at Evans's pass, to Laramie river, 580 miles from Omaha.

The company are inviting proposals for the construction of the extension of the road 275 miles beyond the present terminus, to the above-mentioned point, with a view of commencing work on the mountain division early in the spring, in advance, so as to have the grading done by the time the track shall have reached the base of the mountains.

The track is laid 305 miles from Omaha, and the necessary engines, cars, and stations furnished for immediate use, though not fully equipped, and has

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been accepted from the contractors, and steps taken for a settlement, at $50,000 per mile, including $5,000 per mile for equipment, under the provisions of the Hoxie contract, referred to in our report of July 8, 1865. Said contract was extended to the 100th meridian of longitude by the executive committee without the knowledge of any of the government directors, the extension of said contract not having been reported to the board of directors until October last; such action had, however, been taken by the company, as to render the contract legally binding.

The road thus opened has been turned over to the company to be immediately placed in charge of the operative department of the company, for general traffic of freight, passengers, and mails, and trains are now regularly running over the road.

The grading is nearly completed on 35 additional miles, and contracts made for grading on about 40 miles more, extending to the mouth of Lodge Pole creek. There are 145,000 ties on hand, sufficient for about sixty miles of track, 200,000 hardwood ties contracted to be delivered at Omaha, and 70,000 red cedar ties for delivery near the present terminus.

There is contracted for—and a part of which is delivered—232,000 tons of rails, sufficient for 250 miles of track.

It is due to the parties controlling the road to say that great zeal and energy has been manifested in the prosecution of the work, though some delay occurred at the commencement from the remoteness from the rail-mills and centres of capital and labor, and the high prices of work at the close of the war; yet the progress during the past year has been very satisfactory; in eight months 245 miles of track was laid, a rate of progress unequalled on any continuous line of railroad at any time, even under the most favorable circumstances.

The great cost of the division of road now opened is accounted for, in part, by the circumstances above named, the high rates of transportation, and the difficult navigation on the Missouri river.

It is expected that the Cedar Rapids and Missouri River railroad will be completed the present month through western Iowa, which will save much expense, with more certainty in future in transportation of materials.

We, therefore, congratulate the country that we will soon have an unbroken line of railroads (except the crossing of the Missouri river) from the Atlantic to a point approximating the base of the Rocky mountains, which will greatly facilitate commerce between our States and Territories.

Respectfully submitted:

T. J. CARTER,
SPRINGER HARBAUGH,
CHARLES T. SHERMAN,
J. L. WILLIAMS,
GEO. ASHMUN,
Government Directors of the Union Pacific Railroad.

Hon. O. H. BROWNING,
Secretary of the Interior, Washington, D. C.

WASHINGTON, D. C., *January* 10, 1867.

SIR: In compliance with your request, we herewith submit to you, in writing, the views and opinions we expressed to you verbally this morning.

We visited you at the request and by order of the board of directors of the Union Pacific Railroad Company, as you will see by reference to their resolution, a copy of which we presented you at our interview, for the purpose of calling your attention to the necessity of fixing, at an early day, the point of

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the eastern base of the Rocky mountains by the President, as contemplated by the 11th section of the act of Congress approved July 1, 1862.

We believe the progress of the work would be facilitated by an early decision, for the following reasons:

First. The plans of the company, as we understand them, embrace the most rapid progress of the work that is practicable, reaching Salt Lake City, or the same meridian, in about two and a half or three years. To accomplish this, two hundred and fifty to three hundred miles must be built in the year 1867, which will include the first or main range of the Rocky mountains, known as the Black Hills. Judging from the progress of the past season, during which two hundred and forty-five miles of track was laid in eight months, it is considered practicable, with the experience gained, and the improved facilities for transporting materials, to lay two hundred and fifty to three hundred miles of track, provided the grading can be prepared.

Second. It is evident that the grading of the line over the mountain range, which consists of heavy rock excavation and masonry, should be chiefly finished by the time the track shall have reached the eastern base of the mountains. Although this involves the extra expense of hauling machinery, tools, and supplies forward from the end of the track by teams, an average distance of probably one hundred and twenty-five miles; yet, with the liberal aid granted by the government, it is manifestly the duty of the company to incur this extra expense. To postpone the heavy work on the mountains, awaiting cheaper transportation by rail, would delay the track-laying for another season.

Third. In pursuance of this general plan of progress, the board has invited proposals for constructing two hundred and seventy-five miles, extending from the present terminus, three hundred and five miles west of Omaha, to the west bank of the Laramie river. But in order to intelligent and safe action in entering into such contract, it is desirable that the means of payment should be understood. This cannot be ascertained until the eastern base of the Rocky mountains shall have been fixed according to the terms of the act of Congress.

Fourth. The provisions of the 8th section of the act of Congress relative to the Pacific railroad, approved July 2, 1864, granting government aid to enable the company to commence the grading among the mountains between the eastern base of the Rocky mountains and the western base of the Sierra Nevada mountains, contemplates and authorizes the commencement of the work of grading before the track reaches the eastern base.

For these reasons, and believing that the President has not, at the present time, sufficient data and information to enable him to fix the precise base of the Rocky mountains, we would respectfully suggest that he at this time fix the point within certain limits, leaving the precise points to be settled after the President shall have obtained further information from a personal examination of an officer of his own selection.

Such a course would enable the company to proceed at once with their contracts, and to carry out their policy, the importance of which we trust will justify, in your view, the freedom we take in making this suggestion.

Very respectfully,

CHARLES T. SHERMAN,
J. L. WILLIAMS,
GEO. ASHMUN,
T. J. CARTER,
Government Directors of the Union Pacific Railroad Company.

Hon. O. H. BROWNING,
Secretary of the Interior.

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SPRINGFIELD, ILLINOIS, *January* 30, 1867.

SIR: In compliance with your request when in Washington last month, I have the honor to report for your information the comparative distances, heights, and other suggestions upon the Pacific railroads, authentic data for which was but recently obtained.

In order to fully understand the various titles of Pacific railroads, it is necessary to present a brief description of the different lines, to avoid confusion and make a proper discrimination of the routes, progress, also the financial and commercial interests of this great national enterprise.

The Union Pacific Railroad Company was organized October 30, 1863, under the act of Congress of the United States of America, "to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the government the use of the same for postal, military, and other purposes," approved July 1, 1862, with amendments approved July 2, 1864, commencing "at a point on the one hundredth meridian of longitude west from Greenwich, between the south margin of the valley of the Republican river and the north valley of the Platte river, in the Territory of Nebraska, at a point to be fixed by the President of the United States, after actual survey; thence running westerly on the most direct, central, and practicable route through the Territories of the United States to the western boundary of the Territory of Nevada, there to meet and connect with the line of the Central Pacific Railroad Company of California."

IOWA BRANCH.

The "Union Pacific Railroad Company is hereby authorized and required to construct a single line of railroad and telegraph from a point on the western boundary of the State of Iowa, to be fixed by the President of the United States, upon the most direct and practicable route, to be subject to his approval, so as to form a connection with the lines of said company at some point on the one hundredth meridian of longitude, aforesaid, from the point of commencement on the western boundary of the State of Iowa, upon the same terms and conditions, in all respects, as are contained in the act for the construction of the said railroad and telegraph first mentioned."

The initial point on the western boundary of the State of Iowa was informally fixed by the President of the United States, November 17, 1863, and March 7, 1864, designated and established upon section 10, township 15 north, range 13 east, sixth principal meridian in the Territory of Nebraska.

Therefore the Union Pacific railroad commences at Omaha, Nebraska; thence to 100th meridian of longitude in the Platte River valley; is thence the main-trunk road to the western boundary of Nevada Territory or California line.

CENTRAL PACIFIC RAILROAD OF CALIFORNIA.

This company was formed and incorporated under the general railroad laws of the State of California, June 21, 1861. The places from and to which the proposed road is to be constructed are the city of Sacramento and the eastern boundary of the State of California.

By the act of Congress approved July 1, 1862, the Central Pacific Railroad Company of California, after completing its road across said State, is authorized to continue the construction of said railroad and telegraph through the Territories of the United States, on the same terms and conditions, in all respects, provided in this act in relation to said Union Pacific Railroad Company, until said roads shall meet and connect.

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WESTERN PACIFIC RAILROAD OF CALIFORNIA.

This company is organized under the laws of the State of California, extending from Sacramento to San Francisco, by way of San José.

The above-described companies form the continuous through line from the Missouri river at Omaha to the Pacific ocean at San Francisco.

NORTH BRANCH TO SIOUX CITY.

Under the act of Congress July 1, 1862, this company is formed as provided: "And whenever there shall be a railroad completed through Minnesota or Iowa to Sioux City, then the said Pacific Railroad Company is hereby authorized and required to construct a railroad and telegraph from said Sioux City, upon the most direct and practicable route, to a point so as to connect with the branch railroad and telegraph in this section hereinafter mentioned, or with the Union Pacific railroad; said point of junction to be fixed by the President of the United States not further west than the one hundredth meridian of longitude aforesaid, and on the same terms and conditions as provided in this act for the construction of the Union Pacific railroad aforesaid, and complete the same at the rate of one hundred miles per year."

By the act amended July 2, 1864, this branch is transferred to such company, now or hereafter organized, as the President of the United States may designate or approve for that purpose, and is now in progress accordingly.

SOUTH BRANCH UNION PACIFIC RAILWAY, EASTERN DIVISION.

This company exists in the State of Kansas, under "An act to incorporate the Leavenworth, Pawnee, and Western Railroad Company," enacted in 1855, and subsequently changing its corporate title.

By the act of Congress July 1, 1862, this company is authorized to construct a railroad and telegraph line from the Missouri river, at the mouth of the Kansas river, on the south side thereof, so as to connect with the Pacific railroad of Missouri, to the aforesaid point on the one hundredth meridian of longitude west from Greenwich, as herein provided, upon the same terms and conditions in all respects as are provided in this act for the construction of the railroad line first mentioned, and the Leavenworth, Pawnee and Western Railroad Company may construct their road from Leavenworth to unite with the road through Kansas.

The route was changed by act of Congress in 1866: "*Provided*, said company shall be entitled to only the same amount of bonds of the United States, to aid in the construction of their line of railroad and telegraph, as they would have been entitled to if they had connected their said line with the Union Pacific railroad on the one hundredth degree of longitude, as now required by law; and provided further, that said company shall connect their line of railroad and telegraph with the Union Pacific railroad, but not at a point more than fifty miles westwardly from the meridian of Denver, in Colorado."

CENTRAL BRANCH, UNION PACIFIC RAILROAD.

This company was organized in the State of Kansas as the Atchison and Pike's Peak Railroad Company, and, recently changing its title, derives its rights, franchises, and grants, assigned it by the Hannibal and St. Joseph Railroad Company.

By act of Congress, July 1, 1866, the Hannibal and St. Joseph Railroad Company of Missouri may extend its road from St. Joseph, via Atchison, to connect with the road through Kansas, upon filing its assent to the provisions of this act, upon the same terms and conditions in all respects for one hundred miles in length, next to the Missouri river, as are provided in this act for the construction

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of the railroad and telegraph line first mentioned, and may for this purpose use any railroad charter which has or may be granted by the legislature of Kansas.

This road commences at Atchison, Kansas, extending westerly; is intended to connect with Union Pacific railway, eastern division; thence to connect with the Union Pacific railroad at one hundredth meridian west of Greenwich; but the change of route of the Union Pacific railway, eastern division, by act of Congress in 1866 conflicts with such connections.

The aforementioned companies include all those to which government bonds are now authorized to be paid, though several of the following lines have valuable land grants in aid:

Pacific railroad of Missouri.—In operation from St. Louis to Kansas City.

Southwest branch, Missouri.—In operation from Franklin, on the last-named line, to Rolla, but recently organized as the Atlantic and Pacific railroad, extending by the proposed route, near 35th parallel, to Pacific coast.

Central Pacific of Arkansas.—From Memphis, via Little Rock, to Fort Smith.

Memphis and El Paso.—Through Arkansas and Texas.

South Pacific.—From Shreveport, Louisiana, through Texas.

Gulf and Pacific.—From Matagorda bay, Texas, through Arizona, to San Diego; also connecting with proposed line in Mexico to Guaymas.

South Pacific, of California.—From San Francisco to San Diego.

San Francisco and Central Pacific.—From Sacramento to Benicia.

Northern Pacific—From Lake Superior to Puget sound.

Many of the above-mentioned companies have applied for United States bonds in aid of construction, and bills are now pending before Congress of the United States for that purpose; therefore a comparison of the proposed routes, connections, and distances is important to decide the question as to their merits and necessity.

The lines of railroad in operation and progress from the principal points in the present railroad system to connect with the Union Pacific railroad are shown as follows:

	Miles.
South branch, from Wyandotte, via Lawrence, Fort Riley, Denver, to Junction, base of Rocky mountains	713
From Wyandotte, via Leavenworth, St. Joseph, and Council Bluffs branch road Union Pacific railroad, to Rocky mountains	699
From proposed connection at or near Omaha—	
Via Cedar Rapids, Clinton, to Chicago	502
Via Rock Island, to Chicago	492
Via Burlington, (Iowa,) to Chicago	505
Via St. Joseph and Kansas City, to St. Louis	468
Via St. Joseph, Macon, to St. Louis	421
Via St. Joseph and North Missouri extension	452
Via Chicago, Sarnia, Montreal, to Portland	1,643
Via Chicago, Detroit, Suspension bridge, Albany, to Boston	1,522
Via Chicago, Toledo, Cleveland, Dunkirk, to New York	1,450
Via St. Joseph, Quincy, Springfield, (Illinois,) Fort Wayne, Pittsburg, Allentown, to New York	1,454
Via Burlington, (Iowa,) Logansport, Fort Wayne, Pittsburg, Allentown, to New York	1,386
Via St. Joseph, St. Louis, Indianapolis, (Indiana,) Columbus, (Ohio,) Pittsburg, to Philadelphia	1,419
Via St. Louis, Cincinnati, Parkersburg, to Baltimore	1,349
Via St. Louis, Cincinnati, Parkersburg, to Washington	1,320
Via St. Louis, Cairo, Corinth, Atlanta, Augusta, to Charleston, (S. C.)	1,466
Via St. Louis, Cairo, Columbus, (Kentucky,) to Mobile	1,099
Via St. Louis, Cairo, Memphis, Jackson, to New Orleans	1,210

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Via San Francisco, Omaha, to St. Louis	2,311
Via San Francisco, Omaha, to Chicago	2,392
Via New York, St. Louis, to San Francisco	3,385
Via New York, Chicago, to San Francisco	3,291
Via Washington, Cincinnati, St. Louis, to San Francisco	3,210
Via Washington, Harrisburg, Chicago, to San Francisco	3,233

By comparison of the above distances, it is evident that the principal Atlantic and Gulf ports and prominent railroad centres, as well as of trade and commerce, have equal facilities to a common point on the Pacific coast by the Union and Central Pacific railroads, and quite as favorable routes as the other proposed lines.

The undulations, or rise and fall, will be seen by the following table:

Distances and heights between Omaha and San Francisco.

	Miles.	Feet above sea.
Initial point, Missouri river, Omaha	.....	965
One hundredth meridian	247	2,504
Base Rocky mountains	517	6,019
Summit Evans's pass	548	8.248
Laramie river	578	7,175
Summit Rattlesnake pass	613	7,560
North Platte	667	6,695
Bridger pass	690	7,534
Green river	820	6,092
Reed's summit	910	7,556
Salt Lake City	1,035	4,286
Cedar mountains	.....	4,604
American desert	1,161	4,480
Humboldt mountains	.....	6,125
Humboldt valley	1,243	5,220
Truckee river	1,526	.....
Nevada and California State line	1,560	.....
Summit Sierras	1,620	7,042
Western base Nevada mountains	1,709	.....
Sacramento city	1,716	Tide.
San José	1,836	.....
San Francisco	1,890	.....
Omaha to base of mountains and branch to Denver	630	5,302

GOVERNMENT SUBSIDIES.

The act of Congress provides that each of the companies referred to in the act of 1862 and amendments thereto may receive United States bonds, payable in thirty years, with six per cent. interest, at the rate of $16,000 per mile on portions of the line; $48,000 per mile for most mountainous and difficult of construction, viz., 150 miles westwardly from the eastern base of the Rocky mountains, and 150 miles eastwardly from the western base of the Sierra Nevada mountains; $32,000 per mile between the sections last named; also, 12,800 acres per mile of every alternate section of public land, designated by odd numbers, on each side of said railroad on the line thereof, upon the certificate of United States commissioners that twenty consecutive miles are completed.

The companies are authorized "to issue their first-mortgage bonds on their respective railroad and telegraph lines to an amount not exceeding the amount of the bonds of the United States, and of even tenor and date, time of maturity, rate and character of interest, with the bonds authorized to be issued to said

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railroad companies, respectively; and the lien of the United States bonds shall be subordinate to that of the bonds of any or either of said companies hereby authorized to be issued on their respective roads.

"The grants aforesaid are made on condition that said company shall pay said bonds at maturity, and shall keep said railroad and telegraph lines in repair and use; and shall at all times transmit despatches over said telegraph line, and transport mails, troops, and munitions of war, supplies and public stores upon said railroad for the government, whenever required to do so by any department thereof; and that the government shall at all times have preference in the use of the same for all the purposes aforesaid, at fair and reasonable rates of compensation, not to exceed the amounts paid by private parties for the same kind of services, and one-half of the compensation for services rendered by the government, by said companies, shall be required to be applied to the payment of the bonds issued by the government in aid of the construction of said roads."

The financial success of the work depends much on the judicious application of the funds derived from these bonds, lands as well as the subscription of stock, and negotiations of bonds authorized, yet the credits here offered are deemed ample under economical, sagacious and experienced managers to complete the work at an early period, and prosecute it as rapidly as the wants of the country demand, and it is now confidently expected that the whole line may be in operation in 1870.

Having thus presented this description of the lines, with the characteristics of the route, there is another subject of vital importance to its security and ultimate completion, that is soon likely to be fully discussed and considered—that of

LEGISLATION.

Referring to the original act of Congress granting aid to Pacific railroads, the principles recognized and objects to be obtained are fully expressed in the title "To secure for government the use of the same for postal, military, and other purposes, and upon the most direct, central, and practicable route through the Territories of the United States, at the same time providing for the several branch lines to afford connections with the principal lines of railroads in the western States between 35° and 45° of latitude, and thus concentrating all the lines in the eastern States from Maine to Georgia, terminating at the most important cities and seaports on the Atlantic coast."

The subject of legislation is increasing in importance, affecting the interests of nearly every department of business, and is less of a political and more of a national character in regard to railroads. As the system is extended, the collision of interest is so formidable that it requires more than ordinary vigilance and firmness for the protection of the public interests, and it is almost impossible to hope that, from the separate and connected proceedings of bodies whose existence commences and terminates with occasion of each particular project, there should issue any distinct system uniform in its foundation and principle.

It cannot be too constantly kept in view that the great difficulties are now only beginning to be experienced, that questions for decision are comparatively simple, so long as each new scheme is applicable to a new and separate district of country, but when its interests extend through adjoining States or across a continent it becomes of paramount importance.

It may be said with propriety, the present time exhibits an era in the history of the country; that this is a day in which the public mind is stimulated by a great spirit of enterprise, and there is no doubt enterprise desires encouragement; yet all must admit that enterprise itself is not commendable when it degenerates into a mere spirit of speculation.

One of the forms in which this spirit now exhibits itself is that of railroads; it is ever deserving, in proper limits and bounds, of our encouragement, but in this very matter is liable to tend to generate speculation and distrust.

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This state of things calls for great discretion and consideration; one part of the principle that is to govern us is, that we avoid the hasty granting of corporate powers; the other warns against the infringement of already granted powers. A general motive and rule of conduct to be observed with great caution is, that they be established where a clear necessity for them exists; this is required as well for the public as for individuals.

If there is not an essential exigency, a high demand, for the proposed work, all the expense incurred is so much improperly expended—lost to the community, and not of sufficient public utility and use to require its promotion for the time being.

On the other hand, a persistive course of legislative interference with the various pursuits of commercial and industrial enterprise, and with the complex relations of supply and demand, for the purpose of protecting the public interest, has abundantly proved the fallacy upon which it is based. Enlightened public sentiment now justly condemns any restrictions by legal enactments upon the free operations of traffic and commerce.

Railroads, as compared with any other mode of transportation on land, it needs no argument to prove, can have no successful competition; they are to a certain extent exclusive just in proportion to their superiority, and the safe operation of a road requires unity of action, a combination of details which cannot be obtained without confining the management of the traffic within the limits of its control.

No benefits have been obtained by competition for a long period, except in populous districts where the traffic is sufficient to afford adequate income to rival lines, but in such cases it may well be questioned whether the public interest is enhanced by competition.

Taking it for granted that a large proportion of the cost of transportation consists of the amount and use of capital invested, from which an income is expected, it is evident that an equal amount of business could be done much cheaper with the same profit on one line than if the same traffic is divided between two or more lines; consequently the general welfare is more effectually promoted by a single road properly conducted and restricted than by competition by rival lines, and often results, as it may in the lines referred to, in consolidation of the roads instead of competition injurious to the capital, thus requiring an income on increased investments from the regions contributing to the traffic.

Every improvement whenever made among nations holding intercourse with each other—and it is emphatically true of different parts of the same nation—every such improvement results in the common benefit of the whole. Every product enters into and forms a part of the elements of other products.

Transportation is an item in the cost of production, which is enhanced in value in proportion to the cost of conveying it from the original place of creation to the place of consumption or ultimate use; therefore whatever facilitates transportation and diminishes expense, enriches the communities producing and consuming.

We now learn, and a large part of the world understand, that for commerce to rest on the most solid basis, it must deal on the largest scale in commodities which command the largest consumption. It only remains to consider this subject now

FINANCIALLY AND COMMERCIALLY.

With these views, and the experience of other lines constructed, the railroad system has been extended in the eastern States between the most important cities, connecting the manufacturing and mechanical with the mineral and agricultural districts—the commercial and seaport towns with the rural villages and country, yielding an average remunerative income on the investment.

The capital required has been derived from stock subscriptions, and from

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States and cities, yet a large proportion is loaned on bonds and mortgages, having priority of lien to other securities.

In the western States this modern system has been promoted even beyond the Mississippi river, by individual enterprise, combined with loans and securities of States, counties, and proceeds of land grants, which has developed the rich regions through which the roads pass, and increased the value of property along their lines more than the whole cost of the roads, as is demonstrated in their official reports.

When railroads were first introduced some men wondered; others looked upon their success as impossible; most doubted it being a profitable investment, and few deemed it necessary to act with forethought then respecting them; therefore, from lack of skill in their construction, inexperience in management, and want of sagacity in financial affairs, many of the early projects proved unsuccessful pecuniarily, to those who invested with hope of dividends and income; yet they have increased the value of property, developed the resources of the country, and now we more fully realize their success.

We ought, therefore, to fully understand what advantages we derive, what evils to guard against, and consider the best modes to obtain one and avert the other, and duly exercise our judgment and apply correct principles, as in other affairs of business.

Although many volumes have been written exhibiting the physical, political, and moral aspects of the country, apart from the equally interesting topics of its commercial, financial, and social interests, with which they are now so closely allied, yet an accurate knowledge of the effect of this combination is by no means generally possessed, even by those whose pecuniary resources are to a large extent influenced, prompted, and intimately identified in their results as safe investments.

Railroad securities, stocks, and bonds of our main lines are now sought as the most favorite investments, and rank favorably with other financial loans in the market, and may continue so if prudent measures are taken to secure and protect them.

The amount issued to receive dividends should represent the least possible cost to secure those holding them. If, however, large amounts of such bonds and stocks are to be negotiated by rival lines and adverse interests, it will soon tend to depreciation, or suspension, of all such projects, as the uncertainty of regular dividends affects the value of such securities more than the ultimate payment of the principal, as that is secured and fixed in future.

If we turn our attention to finances, we find no subject so agitates the minds of the people as the currency and the broader questions of the proposed national financial policy in funding and preparing for maturing debts at the lowest possible rate of interest, affecting prices and values, which is a matter of hope and fear to every citizen, until something definite is settled; and, as a practical matter of reform, we must return to specie payments, though not accomplished suddenly, yet by steady and constant contractions. This question as to value of currency is not one of national honor, credit, confidence, or of ultimate security, but of the relation of supply and demand, which fixes prices of currency as other commodities.

The amount of aid now authorized by the government is estimated at over sixty millions of dollars for the main line and branches. It therefore becomes a serious consideration whether hundreds of millions more should now be granted, though it would develop the region of the proposed routes advocated, and tend to concentrate traffic upon other lines of railroads in the immediate vicinity. Yet it may equally subserve the public interest to limit the subsidy to such amounts as is absolutely necessary for that purpose, and to go on to complete one main line to the Pacific, by concentrating all the capital, energy, and traffic, and

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making that remunerative, rather than to divide our resources among several rival lines with uncertain success.

It is probable the trade and travel will astonish those who have not investigated the subject, when the road is fully in operation to the mineral regions of the mountains; though the local traffic in an unsettled country is small at the early completion of such improvements, yet it will afford increased facilities to the government for "postal, military, and other purposes," as it was designed. All objects of human use naturally tend towards the points where they are demanded for consumption, and the removal of natural obstacles, by artificial transportation has enabled the productions of our great western interior to comply with this principle of trade, and those interior productions tend to their markets at the seaports, at several points.

This country is especially adapted to become a great commercial one; its forests of timber, its mines of iron and coal, its rivers and harbors, its connections with so many foreign countries by steamers and sailing vessels, and the new links now soon to be made between the east and the west, forming a thoroughfare between Europe, California, and China, we shall naturally become, to a large extent, the carrier of the world's products, and take the place Venice and Holland once held, and England now holds, if judicious measures are taken to promote such results.

To the enterprise and science of our capitalists and engineers belong the merit of announcing and influencing this law of trade, a triumph of art over nature as truly magnificent as astounding.

This system of railroad lines is drawing the whole trade area to the Atlantic cities, and the exchangeable values created in every other part of the Union. Truly this trade conquest has produced a revolution in the internal commerce, making the whole nation tributary to a few commercial cities.

It is claimed as an axiom, that the commerce of a country increases in distinct proportion to the improvements of its railroad system, and that railroad development is one of the most powerful and evident causes of the increase of commerce.

The exports and imports bear a variable but appreciable proportion to the inland traffic of a country.

The one source of wealth, national and individual, next to the energy and industry of our people, is the large quantity of lands held and granted for public improvement, which will soon become settled and add to the traffic and productions of the country. Though not all at present susceptible of profitable cultivation, from the dry climate in the mountain region, yet they will be used for grazing, and, like India, Egypt, and Mexico, ultimately will be irrigated by artificial methods, and become fertile.

The public lands along the lines are of great value, an inheritance unsurpassed by any nation in the past, which, when fully developed by its agriculturals, minerals, precious metals, lead, iron, and other resources will be increased many fold in value by the improvements projected.

We are aware it is the legitimate province of the government to administer justice and protect its citizens; the establishment of agricultural and commercial pursuits, and legislation of an analogus character, can hardly be said to be confined to its purposes.

There are reasons why public sentiment should approve and be the condition precedent to legislation. Railroad extension is not promoted in the long run by ruinous projects or wasteful financiering, but should tend to restore credit, and hasten the payment of the public debt by increasing the taxable property and wealth of the nation.

The pursuits of commerce are absolutely essential to other departments of industry, to render them remunerative. The facilities of a market are even vital

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to some pursuits and all enterprise; acting on this principle, nations have granted large subsidies to develop public improvements.

The facts are recognized and the expenditures made, though private enterprise could not afford to enlist in so great an undertaking, and without government aid capitalists would not enter on hazardous experiments and advance large sums to carry on such work rapidly; only by such aid can it be accomplished, and it is warranted by the broad consideration of its importance, applying a portion of the rates of transportation of mails, military supplies, and troops to liquidate the bonds in a few years. It is not always practicable to carry on improvements by the government. Exigencies arise which complicate these matters; true statesmen understand this and provide accordingly.

Therefore the government has acquired a new claim on the gratitude of the people by delegating to a company of experienced and responsible capitalists the duty and privilege of completing this work, under the supervision of government directors, to the acceptance of United States commissioners, and in aiding it by public credit and grants of lands, by which it will progress upon a uniform system, exempt from the delays and uncertainty of annual appropriations, and upon a continuous plan matured by those who have the skill and practical knowledge of its affairs to secure the most favorable results to all concerned.

This subject has been extended more than first intended, to elucidate by a comprehensive view of all interests and supply the want of definite information in regard to these lines of railroads.

If I have been successful in a duty in the position occupied, it is all that is claimed, in promoting this work of national importance.

In conclusion I will state that nearly 600 miles of the main and branch lines are in operation, and probably 400 miles more will be completed the present year.

The Union Pacific Railroad Company have recently contracted 212 miles to the base of the Rocky mountains; also arranged for bridging the Missouri river at or near Omaha, to be completed in 1867, which will give a continuous line of railroad an average distance of over 2,000 miles from the Atlantic coast.

But who shall estimate the consequences that will follow the prodigious increase of commerce, the activity of national intercourse, the spread of civilization and advance of human intelligence, by such extension of this modern system in the world?

Respectfully submitted by your obedient servant,

T. J. CARTER,

Government Director Union Pacific Railroad.

Hon. O. H. BROWNING,

Secretary of the Interior, Washington, D. C.

UNION PACIFIC RAILROAD OFFICE,

20 *Nassau street, New York, March* 2, 1867.

SIR: The government directors of the Union Pacific Railroad Company have the honor to submit the following brief report for your information, in regard to its affairs and proceedings since our last report:

At a regular meeting of the board of directors, just closed, a contract was concluded for the construction of 212 miles of the line, extending from the present terminus to the base of the Rocky mountains, at $12,000 and $45,000 per mile, which includes provision for ample equipment and stations.

The work will be immediately commenced on that portion, of which about 40 miles of the grading is in progress already.

The ties for a large proportion of the distance are delivered on the line, ready for use.

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Iron rails are now being forwarded to the road, and manufactured as required for use.

Thirty locomotives are ordered for delivery at an early date as the traffic demands.

The portion of the road completed has been accepted and turned over to the company for traffic, with favorable prospects for a large amount of transportation over the road completed, the ensuing season, to the mining regions, thus affording greatly increased facilities. The reports of the engineers, and results of surveys and examinations for bridging the Missouri river, at the eastern terminus of the road, have been submitted to the directors, with proposals, plans, and estimates, which were referred to a committee on that subject, and are under consideration. Though no definite decision has been made, yet it is confidently expected that the work will be commenced as soon as the season will permit.

Without further details, we are gratified to state, generally, that the work of the company is progressing with as much energy as the means within its power can justify. We shall take pleasure in furnishing you any information requested that may be desired.

In view of its importance, we desire to make a suggestion, supplementary to our letter to you of the 7th day of January, on the subject of fixing the points designated in the act of Congress as the eastern base of the Rocky mountains. Everything tends to show more clearly the importance of an early decision of this question, and we respectfully invite your early attention to it.

Respectfully submitted:

T. J. CARTER,
SPRINGER HARBAUGH,
J. L. WILLIAMS,
CHARLES T. SHERMAN,
GEORGE ASHMUN,
Government Directors Union Pacific Railroad.

Hon. O. H. BROWNING,
Secretary of the Interior, Washington, D. C.

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LETTER

OF

THE SECRETARY OF THE INTERIOR,

COMMUNICATING,

In compliance with a resolution of the Senate of the 5th instant, information in relation to the employment of Louis V. Bogy in the Department of the Interior.

APRIL 8, 1867.—Read, ordered to lie on the table and be printed.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 8, 1867.

SIR: In reply to a resolution of the 5th instant, requesting the Secretary of the Interior "to inform the Senate whether Louis V. Bogy, late Commissioner of Indian Affairs, is now in the employ of the Department of the Interior; if so, in what capacity, what are his duties, and what is his compensation; and when was he appointed, and by whom, and what instructions, if any, have been issued to him, and by whom, and when," I have the honor to state that Louis V. Bogy is now in the employment of this department, in the capacity of special agent. The accompanying paper is a copy of a letter addressed to him on the subject. The date of his appointment, by whom made, the nature of his duties, the instructions issued to him, and the rate of his compensation are therein set forth.

The immediate shipment of the goods purchased and required for the Indian service west of the Mississippi is of the utmost importance. The contracts under which they are to be delivered should be faithfully observed, so that no just cause of complaint may exist in regard to their quantity or quality. The services of an efficient and trustworthy person are indispensable to secure that result, and to superintend the shipment of the goods. Clerks in the Indian bureau were formerly detailed, from time to time, to examine the goods intended for the Indians, and some of the predecessors of Mr. Bogy deemed it their duty to remain a considerable time in New York, with a view of giving their immediate personal attention to the subject. The contracts were entered into by Mr. Bogy while he was Commissioner of Indian Affairs. Having full confidence in his integrity and capacity, I appointed him a special agent, and detailed two clerks from the department, who were familiar with the terms of the contracts and the description and quality of the goods to be delivered, to accompany and assist him in receiving, shipping, and forwarding them.

Requisitions have recently been made by superintendents and agents for goods, in addition to those purchased under existing contracts. It is necessary that they be procured at once, as the delay incident to advertising for proposals would render it impossible to fulfil at the proper time our obligations to the Indians, and to meet the present urgent necessities of various tribes. A purchase on the most advantageous terms, in open market, was therefore determined on. Mr.

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Bogy was directed to make it, and to superintend the shipping of the goods to their proper destination.

At the close of the thirty-ninth Congress there was no longer a Commissioner of Indian Affairs. Various delegations who had visited this city on matters of the highest importance to the government, as well as to the tribes they represented, were at that date engaged in considering and adjusting the terms of treaty stipulations. Satisfactory progress had been made in negotiations, but they were not concluded. I was compelled to permit them to be broken off, subject to be renewed only on the appointment of a Commissioner of Indian Affairs, thus losing the benefit of all that had been accomplished, or to appoint an agent to prosecute and complete them, under the supervision of the department. I adopted the latter alternative, as more conducive to the interests of the contracting parties. Mr. Bogy was entirely familiar with the questions involved, and had repeatedly conferred with the Indians respecting them. He was therefore appointed to consummate the negotiations. The instructions to him were oral. After executing this trust, he left Washington and is now engaged in discharging his duties as special agent.

I deem it proper to add that Mr. Bogy did not solicit these employments, but consented, at my earnest request, to accept them. I was then, and am still, fully satisfied that the business could be transacted more advantageously for the government and the Indians with his assistance than without it.

The appointment is, of course, but temporary, and will expire with the completion of the duties assigned to him.

I am, sir, very respectfully, your obedient servant,

O. H. BROWNING, *Secretary.*

Hon. B. F. WADE, *President of the Senate.*

DEPARTMENT OF THE INTERIOR,
Washington, D. C., March 4, 1867.

SIR: You are hereby appointed a special agent for the purpose of receiving all the goods for the Indians to be delivered under the contracts lately entered into with C. Franklin Bates, of New York, John V. Farwell & Co., of Chicago, and S. C. Hunt & Co., of St. Louis; and also to buy such other goods and merchandise as may be required for the Indian service for the present year. You are authorized to appoint such persons to assist you in selecting such goods, and forwarding and shipping the same, as may be necessary. You will take charge of such goods and merchandise, and have them forwarded to their destination. Those for the Indians on the Missouri river, and for the western States and Territories, you will have forwarded to St. Louis, and from thence you will see that they are all sent to their proper destination in the Indian country. You will consequently be authorized to make such contracts for freight and other incidental expenses as may be necessary, giving in all cases, whether for the purchase of said goods and merchandise, or for the employment of agents and experts, &c., and warehousing, forwarding, and freighting the goods, such vouchers as may be necessary to enable the parties to obtain the settlement of their claims against the Indian bureau. You will give such approved security as the law requires, in the event of any moneys being placed in your hands for the above purpose.

You will be allowed your necessary expenses, and $10 per day for your services.

Very respectfully, your obedient servant,

O. H. BROWNING, *Secretary.*

Hon. LEWIS V. BOGY,
Washington City, D. C.

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REPORT

OF THE

SECRETARY OF THE INTERIOR,

COMMUNICATING,

In compliance with a resolution of the Senate of March 29, 1867, information in relation to the Indian tribes of the United States.

APRIL 13, 1867.—Read, referred to the Committee on Indian Affairs, and ordered to be printed.
APRIL 20, 1867.—*Ordered*, that there be printed two thousand additional copies for the use of the Senate, and five hundred for the use of the Interior Department.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 13, 1867.

SIR: I have the honor to transmit herewith a report of the Commissioner of Indian Affairs, dated the 12th instant, and accompanying tables, containing the information called for in a resolution of the Senate dated the 29th ultimo.

I am, sir, very respectfully, your obedient servant,

O. H. BROWNING, *Secretary.*

Hon. BENJAMIN F. WADE,
President of the Senate.

DEPARTMENT OF THE INTERIOR, OFFICE INDIAN AFFAIRS,
Washington, D. C., April 12, 1867.

SIR: I have the honor to acknowledge the receipt, by reference from your department, of a resolution adopted by the Senate of the United States, March 29, in the following words, to wit:

That the Secretary of the Interior cause to be prepared and reported to the Senate, at the earliest practicable moment, a statement, arranged in alphabetical order, showing—

First. The approximate number of persons belonging to each tribe of Indians in the United States.

Second. The locality and extent of the reservations, if any, assigned to the tribe, and whether the lands are held in common or in severalty; and if there be no reservations, then a description of the country occupied or claimed by such tribe.

Third. A statement of the treaty obligations now subsisting with each tribe, showing the date and article thereof, and referring to the volume and page of the Statutes at Large where the same may be found.

Fourth. The amounts of money required to be appropriated annually under such treaty obligations, and the purposes to which it is to be applied; and also the amount annually appropriated since the year eighteen hundred and sixty-two, inclusive, for the use of tribes with which no treaty stipulations exist, and how the same has been expended.

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Fifth. The progress of each tribe in education and civilization, together with such other facts connected with its history and present relations as may present, in short and concise forms, its true condition, with such remarks in reference to future policy and treatment as the experience of the department may suggest.

Sixth. The name of the superintendent and agent having charge of the tribe, the extent of their jurisdiction, the date of their appointment, with such remarks in reference to the efficiency of such officers as their general conduct in the discharge of their duties may suggest.

Understanding that it was the desire of the Senate to obtain the information called for in the above resolution before the expiration of the present extra session, all possible diligence has been used in its preparation, and to make it complete and accurate as far as undertaken; but I am aware that the limited time allowed to this office has not sufficed for the preparation of a statement which would fully comply with the resolution, or enable it to do justice to the department in regard to many points upon which information is sought. Presuming, also, that the statement required is more in the nature of an abstract, in regard to many items, referring inquirers to such public documents as will give full information upon distinct points, I have limited myself in this statement to such references, instead of giving full details, occupying a large space.

In reference to the second clause of the fourth paragraph of the resolution, it is entirely impracticable to furnish a full detail of the information required, without occupying a considerable force for a long time, and embarrassing greatly the business of the office. This item embraces the expenditure of appropriations amounting to some $2,150,000, including a part of those in Washington Territory and Oregon, all of the appropriations for California, Arizona, Nevada, Utah, New Mexico, part for Colorado, Idaho, and Montana, those for the Sioux at Crow creek, for the numerous refugee bands of the leased lands, and for various wandering bands in Wisconsin. To ascertain the manner in which these funds have been expended necessarily requires the examination of all of the quarterly accounts of the various agents and superintendents for the whole period embraced in the resolution. Should the Senate, however, still require this detailed information, the inquiry will be entered upon without delay.

In order that the information furnished in the annual report of this office for 1866 may be used in connection with this statement, I have, in preparing the alphabetical list of tribes and bands, with the estimated population, (table A,) as required under the first head of enquiry, referred to the superintendency and agency to which the Indians belong, as given in the table of population at page 370 of the last annual report, which table is copied in this report, for convenience of reference, (table B.) This is done because in many cases several tribes or bands are included within one treaty, or are under charge of the same agent; and for the same reason, in furnishing the information required as to existing treaty obligations, or as to reservations set apart for tribes, I have followed the arrangement adopted in the table last referred to, (table B.)

Table C, herewith, furnishes references as to the page and volume of the Statutes at Large, in regard to reservations, their extent, &c.

Table D furnishes the information required under the third and the first paragraph of the fourth head of inquiry, being a condensed statement of the existing treaty obligations with the different tribes, requiring the expenditure of money. The liabilities stated therein are those occurring after the first of July, 1867, and the appropriations for the fiscal year ending July 1, 1868, are made in the Indian appropriation act of the late session of the 39th Congress. This table does not give the amounts of stocks or bonds held in trust for the Indians; for this, reference can be had to pages 325 to 329, annual report of 1866.

Having thus provided for such branches of the inquiries of the Senate as can conveniently be placed in tabular form, I proceed to furnish, in as brief space as possible, the information required under the fifth and sixth heads of the res-

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olution, stating the general condition and progress of each tribe, or aggregation of tribes, with suggestions as to the policy to be pursued towards them, with the names, dates of appointment, and remarks as to the character of the several superintendents and agents. The field is a very extensive one, and the limited time allowed to this office will only permit a casual glance at each agency; and reference must be had for particulars to the annual report of this office for 1866, and the accompanying papers. In preparing this statement, I follow, for convenience of reference, the order adopted in that report and in table B, annexed.

INDIANS IN WASHINGTON TERRITORY.

Tulalip agency.—The tribes or bands connected with this agency are about twenty-five in number, comprising such names as the Tulalips, Lummis, Snohomish, D'Wamish, N'Quentlmaymish, &c. They were brought under treaty relations with the government in 1855, when, in consideration of the cession of a large tract of land, payments were secured to them, intended to be used in such manner as would gradually fit them for sustaining themselves by tilling the soil.

The experiment has not been a success with these bands; and, with the exception of the Yakimas, and a few bands at other agencies, the same remark may be made with reference to all the tribes in Washington Territory brought under treaty relations. At the Tulalip agency, the Indians have had the benefit of the earnest labors of Rev. Mr. Chirouse, a Catholic missionary, for years, and he has succeeded in training some few of the children so that there is some encouragement in his work, but the mass of the people display little interest in the school. Recently, arrangements have been made for infusing more energy into this school, and good results are hoped for, but doubts remain, arising from past experience. The agent in charge is A. R. Elder, appointed March 4, 1864, to the Puyallup agency, but who, upon the resignation of Agent Howe, (the number of agencies for Washington being filled,) was assigned the charge of the Tulalip agency in addition to his own. Mr. Elder has shown himself a prompt and efficient officer. Another full agency should be authorized for Washington Territory.

Skokomish sub-agency, composing the S'Kallams, Skokomish, and other tribes, numbering some 1,500, but comparatively few of whom evince a disposition to cultivate the soil. Under the influence of Mr. J. T. Knox, sub-agent, appointed June 1, 1864, some of the people have been induced to settle upon the farms, and buildings have been erected for them. The superintendent last year referred to the rapid decay of these tribes by disease resulting from contact with the whites, holding out, however, some hope of a better state of things. There is no school upon the reservation. Mr. Knox performs his duties satisfactorily, so far as this office is aware.

Makah or Neeah Bay agency.—Several bands of Makahs are comprised in this agency, their reservation being located near Cape Flattery, the most northwesterly point of the United States, upon the Pacific. These Indians are the Nantucket men of the west coast, fishermen by nature, accustomed to earn a sufficient supply for their simple wants from the waters of Puget sound and from the ocean. The attempt to cause them to settle down to farming has met with very poor success. If they could be aided in the purchase of one or two small vessels, and their attention turned to the systematic pursuit of their fisheries, there is little doubt of their success. Their civilization progresses very slowly. Considerable sums, provided by treaty, have been expended in erecting school buildings and supporting a teacher; but thus far the school has been of little permanent benefit, on account of the short and irregular attendance of the scholars. Mr. Henry A. Webster, appointed March 23, 1866, is the agent. He appears to be laborious and faithful in attention to his duties, and has displayed

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much good judgment upon several occasions of difficulty with the whites. It does seem as if better results ought to have followed the expenditure of so much money at this agency, but the obstacles in the way are certainly serious.

Puyallup agency.—Comprising the Puyallups, Nisquallies, Steilacooms, and several others, parties to treaty in 1854, and the Chehalis and other bands, not parties to any treaty. This is the proper agency of A. R. Elder, heretofore referred to. The Indians appear to have profited little from the payments under their treaty before Mr. Elder's accession to office, but his action has been greatly commended by the superintendent, and the Indians are improving under his charge. The day school has been of no practical benefit, and has been suspended for the present, the funds, meanwhile, accumulating.

The Chehalis and other Indians, in charge of this agency, are remnants of tribes in southwest Washington Territory, who were overlooked in the general treaty arrangements of 1854–'55, doubtless for the reason that they had quietly submitted to being dispossessed of their lands by the whites. They are gradually becoming self-sustaining, and a small reservation has been set apart for them by order of the President. They still need more or less aid from the government.

Quinaielt agency.—Some 600 Indians, of the Quinaielt and Quillihute tribes, are numbered at this agency, though very few of them reside upon the reserve proper An unwise location of this reserve, as first made, and the expenditure of a large amount of the Indian funds at such location, has unfortunately wasted many years of the treaty stipulations. A new location has been made, and the sub agent, Joseph Hill, appointed December 31, 1864, is busily engaged in hewing out new farms in the heavy timbered land of that region. His labors are commended by the superintendent. A costly school-house has been erected, but there are few scholars, and small attention to education. Until the Indians can see their way to some degree of physical comfort, it is in vain to expect any other state of things.

Yakima agency.—At this reservation are numbered about 3,000 Indians, belonging to numerous bands, confederated under the title of Yakimas. A large number of them are sharing the benefits of the treaty, and the number is increasing under the earnest and well directed efforts of James H. Wilber, appointed June 9, 1864. We have here an illustration of what can be done among the Indians of the west coast by a conscientious, intelligent, and earnest agent, devoted to his work, aided by assistants of the same character. The Indians are rapidly advancing in civilization, and becoming good farmers. Their manual-labor boarding-school is a complete success, and the tribe will be fully self-sustaining when its treaty stipulations expire, if the same good management continues. Agent Wilber has some advantages in the location of his agency east of the mountains, and away from white interference, but his great success, doubtless, arises from his own character and action.

In the case of this agency, the provisions of the treaty, common to the whole series of treaties for the tribes of Washington and Oregon, in providing for education in farming and mechanical trades, work well, the country being adapted and the Indians disposed to farming; while as to the many bands scattered upon some thirteen reservations of the other agencies, and lying along the waters of Puget sound and the many neighboring inlets, it is impracticable to use some of the funds provided by treaty, because of the laws prohibiting any diversion of the funds for other than the direct purpose indicated by treaty. Arrangements should be made to modify these treaties, or to give the department discretion in the use of the funds. It appears desirable also to procure such further modification of the treaties as will result in building up at least one thoroughly efficient boarding-school at the Tulalip agency, where the children of the tribes of the Sound may be cared for and educated.

The other Indians of this Territory are the Okinakanes, Spokanes, Colvilles,

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and others. For some particulars as to these Indians see page 98 of the annual report of this office for 1865. In the annual report of the superintendent for 1866, received too late for publication, further information is given showing the necessity of treaty or other arrangements with these tribes, securing to them a reservation, as their lands and settlements are being interfered with by the advancing tide of immigration and travel to Idaho. The opinion is expressed that, under such arrangements, these Indians, many of whom have good farms, would easily be induced to settle down within reasonable limits; while by securing certain fisheries to others, their welfare would be greatly advanced. Mr. William H. Waterman, recently deceased, has been the superintendent of Washinhton Territory since July, 1864. He has been succeeded, September 25, 1866, by Mr. T. J. McKenney, who has been recently appointed for four years and confirmed.

OREGON.

Umatilla agency comprises the Umatillas, Cayuses, and a portion of the Walla-Wallas. About 750 Indians are settled upon the tract, and advancing gradually in civilization. They have a good school, and appear to appreciate it to an increasing degree. The reservation is fertile, and the Indians cultivate the soil so as to be almost self-supporting; but the very fertility of the reservation, lying as it does in the path of a great route of travel to the Idaho mines, excites the cupidity of the whites, and it is feared that the Indians will, by some of the modes of management common in such cases, be forced to abandon it. If they can be protected for a few years, and separate allotments given to the people, they may be saved from the fate impending over them. Their agent is William H. Barnhart, last appointed March 28, 1866. He is faithful in attending to his duties, and appears to have the real interests of the Indians much at heart.

Warm Springs agency comprises numerous bands of the Walla-Wallas, Deschutes, and Wascoes, numbering 1,070 at the last census. Their reservation is excellent for pasturage, but timber is scarce, and must be hauled several miles. Many of these Indians are quite industrious and self sustaining, while others are disposed to wandering, idle, and vicious habits. They have made but little advance in education; the day school only inviting the attention of the children at such times as their parents happen to be in the immediate neighborhood of the school-house, while in their protracted absences they gain more in vice and idle habits. A manual-labor boarding-school appears to be the only hope for permanent success in educating these people. On the whole the tribes of the agency appear to be making sure advances in civilization. Their agent, John Smith, appointed June 13, 1866, did not enter upon his duties till late in that year, but is commended by his superintendent for his faithfulness and energy.

Grande Ronde agency—comprising fifteen tribes and parts of tribes, of whom 1,144 were numbered at the last census. They have entered with much zeal upon the work of farming, the plan of their agent in allotting separate farms to those who would till them having worked admirably. They have two schools: one, a day school, is a failure; the other, a boarding-school, has been reasonably successful, and promises good results for the future, but needs assistance from the government. The agent, Amos Harvey, appointed May 19, 1864, has labored to good purpose with these Indians, and should he continue in office will probably do all that can be done for their benefit.

Siletz agency and Alsea sub-agency comprises the Cooses, a band of Umpquas, the Syouslaws, and Alseas, at the latter, and parts of fourteen tribes and bands at the former. These Indians and their history are referred to at page 105 of the report of this office for 1865, and page 74 of the report of 1866. They have no treaty ratified, but long ago gave up an extensive tract under

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the terms of a treaty made in 1855, and concentrated upon a limited reserve. Here they have proved tractable and industrious, and in a great degree self-sustaining; but fail to understand why the government does not treat them as it does other tribes in Oregon. Last year a part of their diminished reserve, even, was thrown open to public settlement at the instance of whites, and the improvements made by the Indians much interfered with. A day school, at the Siletz agency, has been kept with limited success. The uncertainty of the Indians as to their condition has retarded their progress. Some arrangement should be made for their permanent occupation of a reserve, and concentrating the two agencies into one. Agent Benjamin Simpson, appointed January 21, 1863, and recently (March 27, 1867) reappointed and confirmed, is an efficient office; and the sub-agent, G. W. Collins, appointed April 18, 1864, meets with the approbation of his superior officer.

Klamath and Modoc agency.—The establishment of this sub-agency being very recent, under the operations of the treaty of 1864, which was not ratified till 1866, sufficient time has not elapsed to obtain any definite results, save the evidence of the fact that many of the Indians (Klamaths, Modocs, and certain bands of Snakes who ceded by two treaties a vast tract of land) are willing to concentrate upon the reservation as soon as they can be satisfied that the government will fulfil its promises. Lyndsay Applegate, appointed June 28, 1865, is the special agent in charge, and should be made a full agent, he appearing to understand his duties thoroughly and to be willing to do them.

For information as to other Indians of Oregon see page 77 of Indian Office report for 1866. Mr. J. W. P. Huntington has been the superintendent since his appointment, January 21, 1863, and has been a discreet and faithful officer. His term has expired by its own limitation, but the interests of the Indians and the government would be served by his reappointment.

CALIFORNIA.

Under an act of Congress, passed in 1864, (page 39, vol. 13, Stat. at Large,) it was provided that not more than four reservations should be set apart for the Indians of this State, The four, as now established, are those known as the Round Valley, Hoopa Valley, Smith River, and Tule River. The last two are tracts of 1,300 acres each, leased for Indian farms, and very productive; a large amount of grain being raised at each. The others are reservations of little more than a township in extent for each, isolated from other settlements. It is not considered desirable to continue the leases referred to, and notice of the termination of that of Smith River has been given, and the Indians will be removed to Round Valley. It is urged by members from California that one reservation in northern California will be sufficient, and the rapid diminution of the Indian population makes this probable. But a reservation should be established to take the place of the Tule River reserve, for the accommodation of a very large number of Indians in the southeastern part of the State, and probably another in the far south for those known as the Mission Indians.

The California Indians upon the reservations labor with a good will, and are capable and willing to earn their own living when taught and directed. The number upon the reservations is but a fraction of the whole; the balance being, for the most part, vagabonds, harmless in general, but addicted to the vices of civilization to an uncommon degree. There is not now a single Indian school in the State, for a population estimated at 26,000. Arrangements have been made to establish a school for the Mission Indians in the south, but there should be one or more good schools upon each reservation established at once. It is the very least atonement that can be made to the poor remnant of these Indian tribes for the destruction by the whites of their means of livelihood and their forcible dispossession of their lands, which have returned so rich a harvest in gold.

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B. C. Whiting is the superintendent, having been appointed October 12, 1866, and recently (March 2, 1867,) reappointed for four years. Having but recently entered upon the duties of his office, there has been no opportunity to judge of his efficiency. Mr. Wiley was appointed in 1864, and succeeded by Mr. Maltby in 1865, to be displaced by Mr. Whiting in 1866. It is manifest that such frequent changes must be disadvantageous to the service.

B. L. Fairfield, appointed March 23, 1866, has charge of the Round Valley reserve and is prompt and faithful. George J. Hoffman, special agent, has had, since October 20, 1864, charge of the Tule River farm and has not impressed the office as being well adapted for his business. Henry Orman has but lately (March 2, 1867) been appointed to the charge of the Smith River reserve; and R. L. Stockton, appointed March 8, 1865, at Hoopa valley, is commended by the late superintendent as having conducted affairs with good judgment. Recent advices by telegraph inform us of the violent death of Mr. Stockton, during disturbances upon the reserve. No previous advices had been received of any dissatisfaction among the Indians.

ARIZONA.

Papagos agency.—This agency comprises the Papagos Indians of southeast Arizona, the Pimos and Maricopas, near the centre, and a small band of Apaches who have separated themselves from their hostile bretheren. The Papagos, numbering about 5,000, are of the same class as the Pueblos of New Mexico, living in different villages, cultivating the soil. They have a central point of interest and reverence in the ancient cathedral of San Xavier del Bas, formerly the seat of Catholic influence under the Spanish dominion, and greatly desire the re-establishment of schools among them; steps have been taken to this end. Besides this, a few thousand dollars annually to aid them in obtaining farming tools, &c., and for incidental wants, will be sufficient.

The Pimos and Maricopas number some 7,500, and occupy a high rank among the western tribes, being far advanced in a rude civilization, and quite self-sustaining, carrying on farming and incidental operations with sucess. They are entirely peaceful and loyal to the government, and with some aid in the form of wagons and other implements and tools will take care of themselves. They wish for and ought to have a good school for their children.

River tribes—This agency has charge of the tribes along the Colorado river, from the Cocopas and Yumas, near its mouth, to and including the Mohaves, Yavapais, Hualapais, Chemihueves and others, who live near the river further north, and whose range extends a considerable distance into the interior of the territory. In regard to the Cocopas, who live partly, perhaps mostly, in Mexico and the Yumas, no attempt has been made to aid them except in cases of starvation arising from the failure of their miserable reliance for food, the nuts and roots of the country; and they are rapidly disappearing from the face of the earth. As to the other tribes mentioned, the department has for some years been endeavoring to get them established upon a reservation set apart under authority of Congress in 1865, but with poor success, owing to the very inadequate amount of the appropriations for Arizona. Many of these Indians, who number some 5,000 or 6,000 in all, have been from time to time induced by the late superintendent to abandon their wandering life in the interior (where they obtained a scanty living, but were frequently driven by necessity or cupidity to attack trains of travellers,) and come to the reservations and raise crops. If the crops failed, the Indians were destitute, since the superintendent had no means with which to help them; and many of the people betook themselves again to predatory habits in the interior. Whether it was some of these people, or a band of Apaches, who attacked and killed Superintendent Leihy last December, is not known.

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The Apaches, numbering by estimate some 10,000, range over the central and eastern part of the Territory, always at war with the whites, hunted by them like wolves, and lying in wait for them at every covert. No communication with them has been had by officers of this department, and until means are provided for doing this with some promise of permanent good, it is not worth while to attempt it.

Besides the tribes above mentioned, there are the Moquis, also village Indians, living in northeast Arizona. Little is known of them, but that little is of much interest, as they appear to constitute the remnant of powerful tribes, who formerly occupied that country, which is now filled with the ruins of vast buildings and large towns. These people are entirely peaceful in their habits.

The late superintendent, Geo. W. Leihy, has been succeeded recently by Mr. George W. Dent, appointed August 9, 1866, and reappointed for four years, and confirmed February 21, ultimo. There is no full agent for Arizona. The special agents are, John Fendge, appointed November 7, 1865, to the charge of the river tribes, and Levi Ruggles, appointed April 28, 1866, to the Papagos agency. Both have been attentive and faithful officers.

Increased appropriations, and a judicious use of them, will change for the better the condition of affairs in Arizona.

NEVADA.

The Indians of this State comprise certain bands of the great tribes of Bonnacks and Shoshones, ranging through the northern and eastern portions, the Washoes in the extreme west, and the Pi-Utes, who range from the neighborhood of Carson City southward and eastward, connecting with the people of the same tribes in southern Utah. For details in regard to these people, reference is made to page 113 of the annual report for 1866. Generally, it may be stated that the Bonnack bands are doubtless parts of the people who range also in eastern Oregon and southern Idaho, and who have no treaty arrangements of any kind with the government, even of amity; the Shoshones are part of the people represented in treaties made by Governor Doty, in 1863, under which goods to the amount of $5,000 to $10,000 to each band are annually given to those who come to receive them. The Washoes are a poor, degraded, debauched, but otherwise harmless people; small in numbers, and fast disappearing; the Pi-Utes being the only tribes for which any permanent provision has been attempted, although an annual distribution of goods to a small amount has been made to the Bonnacks. For the Pi-Utes, several reservations are set apart, and a beginning has been made towards settling them upon such reservations that they may earn their own living. The great want has been sufficient means to accomplish any good—$20,000 per annum, after necessary deductions for expenses of superintendent and agencies, goods and transportation, leaving but a small balance for the use of over 4,000 Indians.

There are no schools for any of these Indians. Whenever the Pi-Utes are established at permanent homes they should have, and will appreciate, the benefits of education, as they are represented to be quite intelligent and of better character, morally, than the other tribes.

Mr. H. G. Parker was appointed superintendent for Nevada July 18, 1865, and transacted his duties to the satisfaction of this office until superseded by T. T. Dwight, under appointment dated September 21, 1866. Mr. Dwight, however, was not confirmed by the Senate, and Mr. Parker has been reappointed and confirmed for four years from March 2, 1867.

Franklin Campbell is the special agent for Nevada—there is no full agent—appointed November, 1865; he has special charge of the Pi Utes, and appears to be well fitted to discharge the duties required of him.

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UTAH TERRITORY.

Fort Bridger agency.—The Indians under the general charge of this agency are the eastern bands of Shoshones and Bonnacks, of which Washakee is chief. These bands, with others of the same people, having their range of country along the great emigrant and stage routes to California, Idaho, and Oregon, it was deemed advisable that some arrangement should be made to prevent obstructions to travel, and accordingly Governor Doty, of Utah, in 1863, met their chiefs at various points and concluded separate treaties of friendship with them, under which the government undertook to pay them annuities of from $1,000 to $10,000 for each band, as some compensation for the inevitable destruction of game by whites, they undertaking to keep the peace. The Senate amended all of these treaties by inserting a certain proviso in each, which made it necessary to submit them again to the Indians. A part of them reached the Indians, and the amendments being assented to, the treaties were published, but some of them, Governor Doty having meanwhile died, failed to reach them. The appropriations have, however, been made under all. Washakee's band is one of those which has not yet had the amendment submitted to them. He and his people have faithfully kept their treaties, and indeed the same may be said of all the other bands treated with in 1863. The ranges of country claimed by these bands are noted at the end of table C. They are thoroughly wild Indians, living by the hunt, and have, and at present need, no reservations. Luther Mann, jr., appointed July 31, 1861, is the special agent, and has given full satisfaction.

Uintah Valley agency.—This agency was formerly established at Spanish Fork, near the centre of the Territory, where, and at two other small reservations, attempts were made to bring some of the Indians under the influences of civilization, but they were unsuccessful, and by more recent action an ample reserve has been set apart in the northeast part of Utah, completely isolated from the whites, and here an earnest attempt is being made to concentrate as many of the bands of Utes of various names as possible.

In the fall of 1865, the late superintendent, Mr. Irish, made a series of treaties with the Utah Indians, providing for large payments to them for beneficial objects, to be expended upon the Uintah Valley reserve, they agreeing to remove thereto; but no action has been had upon those treaties. It is very desirable that some arrangement should be made with these Indians, a part of whom are committing frequent hostilities upon the whites, who are encroaching upon their hunting and nut-bearing grounds.

The contact of the whites with the Indians, here as elsewhere, has brought little good to the latter. Some of the chiefs show a disposition to lead their people in the pursuits of agriculture whenever a permanent home is given to them. There are no Indian farms other than those opened at the Uintah Valley reserve, and no schools. The twenty thousand Indians of Utah, like the many thousands elsewhere, are Pagans, whom no missionary ever seems to think of visiting.

Mr. F. H. Head, appointed March 23, 1866, is the superintendent, and is a careful, energetic, and prompt officer.

Dudley W. Rhodes was appointed July 16, 1866, to the Uintah Valley agency. Sufficient time has not elapsed to enable this office to judge of his character and capabilities.

NEW MEXICO.

A great deal of information has been obtained within the last three or four years in regard to the Indians of New Mexico, but the different parties making successive reports have differed so widely as to the numbers, and even the names,

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of the Indians, as well as in regard to the proper policy to be pursued, that it is difficult for the department to decide between the conflicting views and statements. It is impossible to attempt here any condensation of the voluminous papers published in the last three annual reports in regard to these tribes, and I must content myself with referring to those reports for details, and to presenting, in as brief a form as possible, the present views of this office in regard to each tribe.

Navajoes at agency and elsewhere.—Part of these Indians are captives at the Bosque Redondo reservation, part wandering at large, and a large number have been but recently, if at all, emancipated from the condition of *peonage*, in which they have long been held by the people of New Mexico. The captives have been supported by the government, through the War Department, at an enormous expense. It is best that they should be turned over to this department, and it is believed that they can be sustained at a much less cost, and within a short time made self-sustaining with proper management, but as Congress failed to make the necessary appropriations, the Indians continue in charge of the War Department. These people were accustomed to till the soil and manufacture their own clothing in their own country, and there is no reason why they should not again do so. The present agent, Theodore H. Dodd, appointed May 14, 1866, is doing all the limited opportunities afforded him will allow.

Pueblos agency.—The Pueblos are an interesting people, for a full history of whom see annual report for 1864, page 187. They need no aid from government, except for the establishment and support of schools, a supply of agricultural implements, and protection from the influence of the whites who surround them. They own and till their own land, and are self-supporting. John D. Henderson, appointed June 21, 1866, is their agent, and, assisted by Special Agent John Ward, has done much for these people of late. Mr. Ward was their former agent, and it would have been well to continue him in charge.

Abiquin agency.—The Capote and Mamenoche or Webinoche bands of Utes are under the charge of this agency, which has been vacant for some time, but is now filled by the recent appointment (March 14, 1867) of W. F. M. Arny, for four years, and much is expected from Mr. Arny's long experience in New Mexico. The Indians are wild, wandering bands, who generally keep the peace so long as they can find supplies of food by the hunt. It is doubtful whether they can, at present, be induced to concentrate upon a reservation.

Cimarron agency.—Agency buildings for two bands (the Maquache Utes and Jicarilla Apaches, also wild bands) are leased with a farm, and occupied by the agent, Mr. E. B. Dennison, appointed July 16, 1866, but who did not enter upon his duties until late in the fall. The tribes are wild Indians, like those of the Abiquin agency, and seldom make any serious trouble unless pressed for want of food. Besides the tribes above named, there are in New Mexico the Mescalero Apaches, numbering about 550, for whom the Bosque Redondo reserve was originally set apart, and who were industriously at work learning to cultivate the soil when the Navajoes were brought thither, when they left, being at feud with the latter tribe. There are also the Mimbres and Mogollan bands of Apaches in the southwest, numbering, by the superintendent's estimate, about 1,500.

The plan of the superintendent, (A. B. Norton, appointed February 17, 1866,) as communicated in his last annual report, for improving matters in New Mexico, and which suggestions meet with the general concurrence of this office, so far as advised, may be briefly stated thus:

To have the Navajoes turned over to the Interior Department whenever Congress shall have made adequate provisions for their support.

To select on the San Juan or Los Animos river, in the northwest, a suitable reservation for the Capote and Webinoche Utes, and induce them, if possible, to concentrate upon it, including with them the Maquache Utes, now belonging to the Cimarron agency.

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To select a reservation south of the Bosque Redondo, and near Fort Stanton, for the Mescalero Apaches, uniting with them the Jicarilla Apaches, from the Cimarron, these people being allied.

To send an agent to the Mimbres and Mogollan Apaches, and endeavor to induce them to concentrate upon one or both of the reservations, some years since set apart for them, in the southwest. The superintendent contemplates sending Mr. L. M. Baca, recently appointed (March 21, 1867,) agent, upon the last-mentioned business.

None of these projects can be carried into effect without further action by Congress.

COLORADO.

Conejos agency.—The Indians of this agency are the Tabequache band of Utes, who were treated with in 1863, and ceded to the United States their claim to a large portion of the territory west of the Rocky mountains, reserving, however, a wide range of country for themselves, but agreeing to undertake the raising of stock, as preliminary to a more civilized kind of life. Much delay has occurred in carrying the treaty into effect, and it has been, at times, difficult to restrain the Indians from collision with the whites, who prospect the country with little regard to Indian rights. They number about 2,500, and are now quite peaceable. Their agent is Lafayette Head, appointed July 5, 1864, who appears to exercise a good influence over them, though no serious attempts have been made towards their education or civilization, beyond certain supplies of stock furnished under the treaty of late.

Grand River and Uintah Utes.—These Indians are variously estimated at 1,500 to 2,500. They claim the country in the northern part of Colorado, west of the mountains. Part of this region is claimed as a hunting range by the eastern Shoshones, while the Tabequache Utes, in their treaty, to the great disgust of the Grand River band, assumed to sell the country to the United States. These Indians, at a recent interview with Governor Cummings, made a treaty, in which they made some advances towards permanent peaceful relations, but would not talk of concentrating upon a reservation. Their agent is Daniel C. Oakes, appointed March 23, 1866. He appears to have had little intercourse with the people of his charge till recently, and his efficiency has scarcely been tested. Governor Cummings, of Colorado, is *ex officio* superintendent of Indian affairs for the Territory.

DAKOTA.

Yancton agency.—These Indians, numbering about 2,500, are located upon a reservation in southeast Dakota, remaining from their old domains ceded to the United States by treaty. Receiving liberal payments, they ought to be in good condition by this time, being a peaceable people, tractable, and living upon lands of average fertility; but they are very poor. An ample provision was made for education, but the Indians have derived no advantage from it. Various reasons are alleged for this state of things, as frequent failures of crops by drought and grasshopper, too large money payments, injudicious selections of goods, and unfaithfulness of former agents. Some or all of these things must be credited, with wrongs done to the tribe, but the people appear to be very lazy and indisposed to work for a living. Their present agent, P. H. Conger, appointed June 13, 1866, appears to give satisfaction to the tribe, and there is less dissatisfaction than has been usual of late among them. Plans for furnishing them with stock in place of part of the goods formerly received, and for educating some of their children, are about to be put into operation, and, it is hoped, will result favorably.

Ponca agency.—The Poncas are located near the Yanctons, but on the south side of the Missouri. Their original location was unsatisfactory for various

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reasons, particularly because the people, who are disposed to agriculture in its simple forms, were not sure of their crops; and a treaty was made two years since, exchanging their former reservation for a new one a few miles below. This treaty has but just been ratified, and while awaiting this action, it has been impracticable to carry forward successfully any plans for their improvement. Now that they have a defined and permanent home, measures can be carried into operation for their benefit with fair hopes of success. Joel A. Potter, who was appointed June 12, 1866, is their agent, and has, it is believed, performed his duties faithfully.

The nine bands of Sioux, parties to the treaties of 1865, hold possession, under rights conceded at the treaty of Fort Laramie in 1851, of an immense tract of country, stretching from the northeastern to the southwestern part of the Territory, crossing the Missouri, and limited, though with no very clearly defined boundaries, by the Yancton and Ponca cessions to the south and east, and the Crow, Assinaboine, and Arickaree country to the north and west. They are a wild race, living by the chase, and following the buffalo in his range, and have been for years in a chronic state of hostility with other tribes. After the Minnesota outbreak of 1862, dissatisfaction increased rapidly among these bands against the whites, and the diminution of their annuities, caused by high prices in part, and partly by the unfaithfulness of government agents, and the rush of emigrant travel across their country, driving away the game, resulted in various outrages by the Indians, and an expedition against them under the command of General Sully. Two campaigns resulted in so far wearing out the Indians, many of whom had continued friendly, that they were very glad to make peace and concede the right of travel on certain routes through their country; and, what was more gratifying, a considerable number have agreed to make an earnest attempt at farming, as soon as they can be furnished with the necessary facilities. This is a great point gained, for they have been taught to despise work as unmanly. There are many bad men, doubtless, among these people, but the great mass exhibited a degree of patience under intense suffering in the winter of 1866—choosing to die of starvation rather than break their treaty by stealing food—which would shame many white people.

Mr. J. R. Hanson, appointed March 23, 1866, is their agent. He is located at present at the old Crow Creek agency, abandoned by the Winnebagoes and Santees, and there, and at other points, is making preparations to teach a few of the Sioux the rudiments of farming. He is proceeding very intelligently with the work, and, so far as the means at the disposal of the department will allow, will doubtless succeed. But the amount set apart by treaty for the encouragement of these Indians in self-sustaining industry at permanent homes is altogether too small.

Far north, where the Missouri river in its descent bends from its easterly course to the southward, are the confederate bands of Arickarees, Gros Ventres, and Mandans. They are a peaceful people, disposed to work to some extent, strong enough to protect themselves from being overrun by hostile tribes, but preyed upon by them, and asking the protection of the government. They especially beg for schools, and should have them. Under the treaty made with them in 1866, means were provided by which the condition of these people could be greatly advanced and improved. The treaty has not been ratified, but an appropriation has been made which will, at all events, show the Indians that all of the promises of the commissioners were not meant to deceive them.

The Assinaboines have their range further to the north and west, and are a wild, nomadic people, generally minding their own business and giving little trouble to anybody. Having been parties to the treaty at Fort Laramie, the stipulations of which expired last year, and it appearing very desirable to secure uninterrupted travel through their country for the Montana emigration, a treaty

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was also made with them, by which they gave up a large triangular tract of land lying between the Missouri and Yellowstone rivers.

Mr. M. A. Wilkinson, appointed March 14, 1864, is the agent for the last two tribes named, his agency being nominally at Fort Berthold, but, in effect, no residence is furnished for him, and, inasmuch as it appeared to him that there were no duties to be performed during the winter season, it has been his practice to come south in the fall, after delivering the usual supply of annuity goods. This practice is not deemed to be the best for the Indians, for they must need the services of their agent to protect them from undue exactions from traders and improper influences of the bad white men or Indians among them. A comfortable residence should be provided, and the agent required to remain there, within reach of the Indians.

IDAHO.

Nez Percés agency.—These Indians have for many years been characterized by friendly feeling towards the whites, having been early brought under good influences by missionaries, who labored among them to good advantage. In 1855 they made a treaty with the United States, by which they gave up all title to a large body of land lying in what was then Oregon and Washington Territories, limiting themselves to a reservation of great extent. Four years elapsed before this treaty was ratified, the whites meanwhile encroaching upon the lands in every direction, while the Indians, of course, did not receive the promised benefits. This treaty was scarcely fairly in operation before the increasing tide of emigration made it apparent that the reservation must be limited. Towns had grown up upon it, and almost every valley and gulch was prospected or possessed by the whites. A new treaty, diminishing the reserve, was made in 1863, and immediately, without awaiting its ratification, the whites commenced taking possession of the land ceded. That treaty was not agreed to by the Senate till August, 1866, and then with amendments, which made it necessary to delay till it could be submitted to the Indians. This was done in December, 1866, when the Indians, bewildered and troubled by the constant delays, declined to agree to the amendments, so that the treaty remains unratified. The good behavior of the Nez Percés through all these perplexities has been remarkable. If their affairs can once be brought into a smooth course, and the beneficial expenditures of their treaty have their fair operation, these Indians will do well. Many of them have been educated by the missionaries, and appreciate the blessings of civilization, while the tribe in general avoids its vices to a greater extent than is usual among Indians. Experience with this tribe, as with others, induces the recommendation that there should, in all cases, be a superintendent of Indian affairs separate from the territorial governor. Governorships are held as political offices, subject to constant change, and every change necessitates new bonds and long delays, while the officers of the Indian service, to perform their duties to the advantage of the government and the Indians, ought to be as permanent as possible, where good and capable men are found for the purpose.

Jno. O'Neill is the Nez Percés agent, appointed July 6, 1864, and is an excellent officer. His influence over the Indians has been used to their great advantage and that of the whites.

North of the Nez Percés are the Cœur d'Alénès and part of the Kootenays and Pend d'Oreilles, not parties to any treaty. While they are peaceably disposed and self-sustaining, and there may exist no necessities for formal treaties with them, yet their country is being traversed by much travelled routes, and the prospectors for gold are searching every part of it and taking possession of fertile valleys. From this must come collisions and eventual trouble, unless pre-

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vented. Hence it has been recommended that a small reservation may be set apart for these people as a preliminary to more permanent arrangements.

The same action has been taken in regard to certain bands of Shoshones in the southern part of the Territory, in charge of Special Agent Geo. C. Hough, appointed June 8, 1866, and as to whom some details may be found at page 190 of the annual report of this office for 1866. These Indians need, and for their good conduct deserve, protection from the government. In their case, as in the case of the tribes previously named, this office has recommended that a reservation, selected for them, be set apart for their use. Governor Ballard, of Idaho, has, since the summer of 1866, been superintendent of Indian affairs *ex officio*.

MONTANA.

Flathead agency.—The Flatheads and part of the Kootenays and Pend d'Oreilles were brought under treaty stipulations in 1855, but the treaty not ratified till 1859. They had been under the influence of missionaries to a considerable extent, and many of them were well disposed towards agriculture, in which pursuit they have accomplished something. A school was for some years kept up, but with such poor results, as compared with its cost, that its operations were suspended two years since. Three changes of agents during the last year and a half have resulted necessarily in some confusion in the affairs of the agency. The present agent is Mr. Jno. W. Wells, appointed November 9, 1866, and reappointed for four years from March 2, 1867, and confirmed. He has probably just reached his agency.

Blackfeet agency, at Fort Benton has charge of the Blackfeet proper, Bloods, Piegans, and Gros Ventres, members of the great Blackfeet nation, and of the Crows. By treaty with the Blackfeet in 1855, (to which the Flatheads and Nez Percés were also parties,) the country of the Blackfeet was defined, and another region was defined as a common hunting ground for the three tribes, together with the Shoshones. A certain sum was to be paid in annual payments, in goods, for ten years, while the sum of $15,000 for each of ten years was to be expended for their improvement in agriculture, education, and civilization. The ten payments in goods have been made, and there remains on hand some $100,000 of the other fund unused. The portion expended has produced no practical result, the Indians being no better off for the expenditure made. A farm was opened, but little was done upon it, and it has been abandoned, and the property destroyed or plundered. Portions of these bands have always been more or less hostile, and the rapid increase of whites in that region has not tended to quiet them. In 1865 (December) a new treaty was made with these Indians, by which they ceded all of their country south of the Missouri in consideration of certain benefits, but the ink was scarcely dry when new hostilities broke out, and the treaty has not been sent to the Senate. The Gros Ventres of this confederation live apart from the other bands, and further to the eastward.

They are well disposed towards the whites, and it is to be regretted that a separate treaty was not made with them, in order that they might be encouraged to continue friendly. It will be difficult to explain satisfactorily to them why they do not receive the small amount of goods expected.

The Crows belong also to this agency, properly, but wandering over a wide range of country, their goods due under the Laramie treaty have been annually distributed near Fort Union by the Fort Berthold agent. A new treaty was made with them in 1866 at Fort Union, and a new agency contemplated, to be located at that place for this tribe and the Assinaboines, but this treaty, with the others made that year, has not been ratified. Congress has, however, made an appropriation under it.

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George B. Wright was appointed April 12, 1866, to the agency at Fort Benton, and reached his agency late in the summer. There is reason to doubt whether he is the right man for the place, but until some examinations now in progress are completed, it would not be just to condemn him. The Indians of his agency can, by proper management, be kept quiet, and advanced gradually in civilization, but this office is not at present prepared to make definite suggestions to that end. As at present advised, it is thought that the Crow treaty, with those made with the other Indians of that region, should be ratified, and a separate treaty made with the Gros Ventres; or, a simple contract, if such arrangement would be more satisfactory to Congress. But whether contract or treaty, the arrangement would be obligatory upon both parties, not to be violated without disgrace and damage.

NORTHERN SUPERINTENDENCY.

Winnebago agency.—These Indians are the remains of a formerly powerful tribe, which has within the past twenty years greatly diminished in numbers, owing to circumstances different from those affecting Indian tribes generally. When they sold their lands in Wisconsin, and accepted a reservation in Minnesota, a considerable portion of the tribe (still estimated at about 700 in number) were dissatisfied and declined to remove; and these are still vagabonds over the counties in the northwestern part of Wisconsin. As to those who removed, they accepted the situation, saw the necessity of labor, and within a few years had become nearly or quite self-sustaining upon their new and fertile lands. They had, and appreciated, good schools, and were fast advancing in civilization. But the Sioux massacre of 1862 changed the friendship of the whites to hatred of everything in the form of an Indian, and the Winnebagoes, though entirely guiltless, were compelled to sell out and remove. The details of their removal to, and abandonment of, the Crow Creek reserve are too long for recital here, and reference may be had to pages 407 to 414 of the annual report for 1865. By treaty with the Omahas in 1865, a new home was secured for the Winnebagoes, and they are being gradually restored to a condition of comfort, after great suffering and the loss of many lives from privation endured for several years. Charles Mathewson, appointed July 16, 1866, is their agent, and has proved himself to be the right man for the place, which is a very laborious and responsible one.

Omaha agency.—These Indians have generally profited by the beneficial stipulations of their treaty, and are just advanced to the condition in which they desire separate allotments for their farms, which allotments are being made. They have a good school, and many of them are becoming considerably advanced in civilization. By the sale of part of their lands to the Winnebagoes, they have secured some additional assistance in that direction, and will, in all probability, be entirely self-sustaining by the time that their payments expire. Their present agent, Louis Lowry, appointed October 26, 1856, has been in charge too short a time to enable this office to judge as to his efficiency. The office is now vacant, Mr. Lowry not having been confirmed by the Senate.

Ottoe and Missouria agency.—The condition of these Indians is very unfavorable. They have a large reservation, a great deal larger than they need, and have had liberal annuities; but they are naturally idle, and have not had the proper influences exerted over them to bring them to industrious habits. Their agency buildings have become dilapidated; the whites are encroaching upon their reserve; their payments are running out; and they have no school. In fact, they appear to be retrograding rather than advancing. It is suggested that a new arrangement with them ought to be made, either for the purchase of part of their reserve and judicious expenditures of the funds upon a diminished reserve, or for the purchase of the whole and the removal of the tribe to the In-

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dian country. The Ottoes are suspected of being concerned in some of the outrages in western Kansas. They need a capable, energetic, wide-awake man for their agent. It is not quite certain that their present agent, John L. Smith, appointed June 4, 1866, is such a man; but he has only been with the tribe a few months.

Pawnee agency.—The troubles upon the borders have prevented the Pawnees from going upon the hunt as much as usual, and this is a benefit to them; it would be well if they could know that there was no more game to be had, that they might settle down to farming operations, in which they have been somewhat successful. They made in their last treaty ample provision for schools, and have been much at a loss to know why they received so little benefit from the funds expended. Quite an unnecessary amount has been spent in erecting a school building in former years, but it is now completed, and, under temporary arrangements, the school is doing well. Under a conscientious, judicious agent the Pawnees ought to do well, as they need only to have their energies directed in the right quarter. At present, most of them would rather hunt and fight than work, and a large number have enlisted in the regiment of Indian scouts, and are away on government service; of course, they make no great advance towards the best features of civilization while upon such service.

Great Nemaha agency.—At this agency are the Sacs and Foxes of Missouri and the Iowas—the former numbering 102, the latter 303. As to the former, little good or ill is to be said. They give the government but little trouble, but they are so rich with their annuities that, with the exception of the few patches tilled by the women, they do not work. They have no school, and care very little apparently for education. The Iowas are a better class of people, and are improving in education and civilization, many of them being good farmers, and others willing to become so; have some good houses, and sustain a temperance organization of their own. Mr. C. H. Norris, appointed March 23, 1866, is the agent, and has proved himself to be a good officer.

Niobrara agency—Santee Sioux.—Full details in regard to these Indians may be found, beginning at page 223 of the annual report for 1866. They are the remains of the people removed in 1863 to Crow creek, with additions from those who were imprisoned at Davenport. As to their past, the papers referred to will indicate the history. As to the present, they are peaceable, industrious, sober, and, as to many of them, a Christian people. A delegation has been in this city for two months, awaiting proposed action of the department and Congress in regard to providing for them some other home than that now occupied by them; but no action has been taken. They are anxious to be permanently fixed somewhere, and will, after being so fixed long enough to get fairly at work, relieve the government of all expense. Could the Sioux, not justly identified with the Minnesota massacre, have restored to them the funds taken from them by the act of Congress of 1863, the money, judiciously expended, would be abundant for the purpose of advancing them to a self-sustaining condition. J. M. Stone, appointed June 12, 1866, is their agent, accompanied them from Crow creek, and is regarded as a faithful officer.

Upper Platte agency.—The tribes in charge of this agency are the Brule and Ogallalla Sioux, and the Arapahoes and Cheyenne bands who roam over the same country. The Sioux are well-defined tribes or bands, allied to those heretofore referred to under the head of Dacotah, but the other tribes are not so well-defined. The latter must, however, be distinguished from the bands of the same name belonging now to the central superintendency. The region claimed, in the Fort Laramie treaty, for all of the Arapahoes and Cheyennes, was bounded by the South Platte, the Rocky mountains, the Arkansas river, and a north and south line drawn through the old crossing of the Arkansas; but when, in 1861, a treaty was made with these tribes, a considerable portion of the people, refusing to take part in the treaty, remained north of the Platte with the Sioux,

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and engaged with them in hostilities. On the occurrence of the Chivington massacre in 1864, many more fled to the northward, and have been bitterly hostile ever since. Their influence upon the Sioux bands has been very bad. Some of the Sioux bands have gladly made peace, and left the balance of their people to come down to Fort Laramie for protection, and have agreed to attempt a settled life; and the same may be said of part of the Cheyennes. Some of both people, however, seem determined to fight out the battle to the bitter end, and, if they can be found separate from those disposed to peace, thorough chastisement is probably the only course to be pursued with them. Agents of the government, with words of peace for the well-disposed, and a powerful military expedition to hunt down the hostile bands, are both on the way at this time, and we must await further developments before venturing upon definite suggestions as to the future. Mathewson T. Patrick is the agent, appointed August 3, 1866, and reappointed for four years from February 7, 1867, and confirmed. He has thus far performed his difficult duties to the general satisfaction of this office.

CENTRAL SUPERINTENDENCY.

Pottawatomie agency.—This tribe is still a large one if its various scattered bands, provided for under various treaties, and wandering about, declining to avail themselves of the benefits of any treaty, were united. A considerable number of them are still in Michigan, parties to treaties which locate them with Chippewas and Ottawas in that State; while there are supposed to be not less than 650 in Wisconsin, leading a vagabond life for the most part; and there are a few in Iowa. In Kansas they number about 2,000. One-half of these are yet pagans, for the most part decline to avail themselves of the liberal educational facilities of the tribe, and hold their lands in common, though there are some good farmers even among these. The remainder of the tribe are mostly under the influence of Catholic missionaries, who have an admirable boarding-school, very successful in its operations. Many of this class of Pottawatomies are well educated, speak and write English fluently, have taken the initiatory steps to become citizens of the United States and abandon their tribal relations, and are indeed every way fitted for citizenship. They complain, however, that the whites are prejudiced against them, and that they are unable to obtain justice or equal consideration among the whites. In the series of treaties, mostly made in 1854–'55 with tribes in Kansas most advanced in civilization, it was intended to bring about a gradual extinction of those tribes by merging them in the white population; and separate holdings of land were to be set apart for such as desired to individualize their property. After more than ten years' trial, the experiment has, to a great extent, proved a failure, many of the most enlightened of the Indians declaring that they prefer selling out their property, and, with their tribes, removing to a new home in the Indian country, where they can retain their tribal relations and still improve in education and civilization, as the Cherokees and other tribes of that country have done, under their own laws. After careful consideration of the case, the department, during the past winter, took steps to meet the emergency as to the Indians, and, at the same time, yield, with as little injury to them as possible, to the advancing tide of emigration, which is crowding upon the Indians from every side, by inviting delegates from all of the Kansas tribes to this city to make treaties. The series of treaties thus made is now before the Senate.

I have dwelt more fully upon this point than would be warranted but for the fact that the remarks relative to the condition of these Indians, and the policy proposed, apply also, in greater or less degree, to several other tribes in Kansas yet to be noticed. In the event of the ratification of the treaties referred to, doubtless many of the most civilized of the Indians will remain and become

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citizens. Luther Palmer, appointed March 8, 1865, is the agent for the Pottawatomies, and is an intelligent, capable, and faithful officer, and a good friend to the tribe.

Omitting for the present the Sacs and Foxes of Mississippi, the next in order in table B, in order to group together the tribes to which the above remarks more especially refer, we come next to the *Osage River agency*. The tribes here, under charge of G. A. Colton, appointed March 8, 1865, and who has given general satisfaction as an officer, are the Miamies, and the confederated bands of Peorias, Piankeshaws, Kaskaskias, and Weas. The remarks made as to the condition of the Pottawatomies apply, to a considerable extent, to these tribes. The special points of difference are that these people all hold lands in severalty, and that none of them have advanced so far in civilization as some of the Pottawatomies, though the general average of prosperity, as the result of well-directed industry, is doubtless greater, particularly in the case of the confederates. The Miamies have paid considerable attention to the education of their children.

Shawnee agency.—The Shawnees number in all at the last census 1,280 souls; but of these 520 are reckoned among the bands of the Wichita agency, having been for years separated from the rest of the tribe. In a late report accompanying the treaty made with this tribe details were given of what may be called their political troubles, which it is unnecessary to repeat here. The design of the department has been to unite all portions of the tribe upon a sufficient reservation, and thus to bring to bear upon the less advanced and thrifty the good influence of the more advanced and really excellent leading men of the tribe. The men comprising the business council of the tribe will compare, without discredit to themselves, with the town committees of the majority of white settlements, and they have the interests of their people at heart.

The influence of the Friends' Mission for many years upon the people has been a valuable one, and there are numbers of them well educated in the ordinary English branches. These people, like the other tribes whose homes are near the Missouri border, have suffered greatly at the hands of marauders during the troubles of Kansas and the late rebellion, but there are many fine farms and good farmers among them. Their present agent is Mr. H. L. Taylor, appointed March 7, 1867, but who has not yet been among the Indians at the agency, being in attendance with the delegations here.

Delaware agency.—The remnant of this ancient tribe (but once, and that for a brief period, in all its history, hostile to the whites) numbers now 1,064, besides 114 counted in the Wichita agency. After many shifts and changes under successive treaties, they were settled upon a reservation in Kansas, north of the Kaw river, of ample extent; but this has been sold in parcels from time to time, the Indians taking allotments under the treaty of 1860, until, last year, they made a treaty providing for selling the balance of their lands in Kansas, and removing to the Indian country. Some of them are fair farmers, and men of good judgment and business habits, but idleness and shiftlessness prevail to a considerable extent. The income of their funds is large, and enables too many to supply their simple wants without work. They have an excellent boarding-school, conducted under the immediate supervision of their agent, Rev. J. G. Pratt, last appointed April 18, 1864, who removed with them to their present reserve, and has been a faithful friend and guardian of their interests. This tribe has just made an arrangement with the Cherokees, under which, if approved by the President, it will be merged in the latter tribe. This agency has also charge of a fragment of the old Wyandott tribe, removed from Ohio to Kansas. Most of those who have not become citizens, and many of those who have, are very poor. The majority of the former class have been living of late years, and until the war, in the Indian country.

Omitting also, for the present, the Kaws, the next in order is the Kickapoo

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agency, where the small tribe of Kickapoos, numbering only 242, has been till recently under the charge of F. G. Adams, appointed May 25, 1866, but who is understood to have been displaced by another person, whose nomination was not confirmed. The tribe, as now constituted, contains a majority of native Pottawatomies, who, some years since, dissatisfied with their own tribe, purchased rights among the Kickapoos, the great majority of the Kickapoos proper wandering off to the southward, and being last heard from in Mexico, near the Rio Grande. Should the pending treaty with this people be ratified, doubtless the tribe will, to some extent, be reunited, and most of the Pottawatomies will remain in Kansas, with a view to becoming citizens. These people are making some progress in agriculture, and had, some years ago, a good school, under the charge of the Presbyterian board, but it has been abandoned. Recently a school has been again put in operation, and is successful with a few pupils.

Ottawa agency.—The Ottawas here, about 200 in number, are a branch of the old Ottawa tribe, most of whom remain in Michigan. They had made considerable advances in civilization before removing to a reserve in Kansas, and in 1855 agreed to take part of their land in severalty, devoting the remainder to the establishment of an institution for the thorough education of Indian youth, to be under the charge of the Baptist denomination, by which they have been greatly assisted. They have well educated men among them, and the people are fully self-sustaining to as great an extent as frontier farmers generally. Distrusting their ability to get along as citizens, they propose to purchase a sufficient tract of land to which to remove if the experiment fails. Mr. C. C. Hutchinson, appointed March 25, 1864, as special agent, has been in charge since that date. There is reason to fear that, as the result of investigations now in progress, he will be found to have been either grossly negligent or otherwise unfaithful to his trust.

Sac and Fox agency.—The Sacs and Foxes were once a very powerful tribe in Wisconsin and Illinois, and gave the government much trouble under their chief, Black Hawk. They finally sold out, and were removed to a point in Kansas so far west that it was thought they would be safe from collision with whites; but railroads are already beyond them. In 1860, having more land than they needed, and being willing to try farming as an experiment, they ceded a large part of their reserve, in trust, to be sold for their benefit, expecting that with the avails, and the proceeds of their hunt, they would be made more comfortable. To their astonishment they found a costly system of house-building entered upon and carried through, absorbing all of their expected income. Several of the leading chiefs have turned their attention to farming, and encourage their people in that pursuit and in education, and the school lately established has been very successful; but the tribe, as a whole, are blanket Indians, and live by the hunt. They see, however, that this cannot long be a safe reliance, and desire to sell their remaining reserve, and provide for a new method of life in another country, away from the whites. They are a quiet, loyal people, and resisted all appeals to them to join the southern Indians in the late rebellion. Their present agent is Albert Wiley, appointed March 20, 1867, and who has not yet taken charge of the tribe. Under the same charge is also a little band of Chippewas and Munsees, holding their lands in severalty, earning their living by farming, having a good missionary school, and declining to remove.

Kansas agency.—Here are the Kaws, or Kansas tribe, whose agent is Mr. E. Stover, who was appointed March 21, 1867, but has not yet taken charge. The remarks made above, in regard to the Sacs and Foxes will, apply almost *verbatim* to the Kaws, and need not be repeated. They have, however, for a long time had a boarding-school under the charge of the Friends' mission, but it has been a failure, and has been closed. Either the "silent system" was unattractive to the children, or the teachers were inefficient; at all events it was evident that the school was accomplishing little, if any, permanent good.

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The Kiowas and Comanches are numbered in this superintendency, because of the headquarters of their agent, Colonel J. H. Leavenworth, appointed July 8, 1864, being at Fort Zarah, within the limits of Kansas; but his tribes see but little of that State, except at the time of payments. They are all wild Indians, disposed occasionally, as to an unruly portion of their number, to predatory expeditions, and have committed many outrages. The older chiefs and the majority of the people, it is believed, endeavor to check this propensity of their unruly young men, but find great difficulty in accomplishing it. There are several bands of Comanches living in western Texas, who are not parties to any treaty, and who are understood to be located in a country of average fertility. By a treaty made in 1865, these tribes agreed to keep themselves south of the Arkansas and within a wide range of country bounded by that river, New Mexico, a line drawn from the southeast part of New Mexico to the Red river at the west line of the "leased lands," the Red river, the line of 98° west longitude, and Red creek, and within this region a permanent home was to be found for them. Unless some arrangement can be made to settle them in northern Texas, it is difficult to find such a place, for the west part of the Indian country is not of such character as would answer the purpose. Colonel Leavenworth, the agent, has had a long experience upon the border, and has great influence over the Indians. In the present condition of our relations with these Indians, his services are indispensable.

The Arapahoes, Cheyennes, and Apaches, confederated by treaty of 1865, agreed to give up all other lands and retire within certain boundaries, said reservation lying partly on public lands in Kansas, partly Osage lands, and partly Cherokee lands. They also agreed to concentrate upon a smaller reservation when the government should desire it. The treaty was amended in Senate so that this last reservation should not be in Kansas, and the Indians agreed to it, thus depriving themselves of any claim to a defined tract of land, and leaving themselves to the mercy of the government.

This state of things should not be allowed to continue. These people, in selling to the government a vast tract of land in 1861, were guaranteed a reservation in Colorado, and improvements of a permanent character were going forward in 1864, when the Indian war broke out. A large portion of these tribes tried to keep the peace, but were not met in a friendly spirit by the officers in charge of the military posts, and many of those who had separated themselves from the hostile bands were killed at the Sand Creek massacre by the troops under Colonel Chivington. It is scarcely to be wondered at that they feel themselves to have been unfairly treated. They must have a permanent home somewhere, and be taught to *respect* as well as fear the government. Colonel E. W. Wynkoop is their agent, appointed September 26, 1866, and lately (February 7, 1867) reappointed for four years and confirmed. He appears to have the confidence of the Indians, and thus far to exercise a good influence over them in the difficult circumstances in which they are placed.

The superintendent is Thos. Murphy, who has been in charge for some three years, and whose last appointment dates from March 23, 1866. He is a capable and valuable officer, deserving special commendation.

SOUTHERN SUPERINTENDENCY.

The tribes of this superintendency may be divided into four classes, to wit:

First, the Creeks, Cherokees, Choctaws and Chickasaws, and Seminoles.

All of these tribes were removed at various times from the Gulf States: the Creeks from Alabama, the Choctaws and Chickasaws from Mississippi, the Cherokees from Georgia, and the Seminoles from Florida, the latter after a long and expensive war. The end of hostilities and many negotiations was to all the same—their removal to the west. Fortunately, the government was able to preserve their country for them free from the interference of the whites, the recogni-

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tion of the institution of slavery among them doubtless excluding their fair domains from being coveted by the great immigration to the west. In that country they had prospered and advanced in civilization, but in different degrees as to the several tribes. The Cherokees and the confederated Choctaws and Chickasaws had their written languages and national constitution and laws, their judges and courts, their well supported schools, academies, and churches. Many devoted missionaries and teachers from among the whites, and educated men of their own people, labored successfully among them, and in all respects they were advancing rapidly to stand side by side with the whites in civilization. It may indeed be safely said that the border population might have found profit in following their example.

The Creeks were not so far advanced, but they too were making good progress. The Seminoles had been in the west a shorter time, and there were heart-burnings for a long time on account of the Florida troubles, but they were peaceably attending to their farming operations and making themselves a comfortable living.

It was thus at the breaking out of the rebellion. The connection of these tribes with the war is treated of very fully in the annual reports of 1865 and 1866. The result has been that they have to do over again the work of building up their homes, opening their farms, and obtaining therefrom the means of sustaining their families. This done, they will again organize their educational institutions, indeed are taking steps to do so now. In order to procure the means of re-establishing their ruined homes, all of these tribes have made arrangements to dispose of lands, the Cherokees selling a tract which they owned in Kansas; the Creeks, the west half of their country; the Choctaws and Chickasaws, the region known as the "leased lands;" and the Seminoles, all of their country, and purchasing a home within the late Creek reserve. The agent for the Cherokees is Mr. J. J. Humphreys, appointed September 25, 1866, and reappointed for four years from March 2, 1867, and confirmed; he has not been long with the tribe, but has thus far given satisfaction. The Creek agent is James W. Dunn, last appointed June 7, 1866, and who has long been considered a judicious and faithful officer. Mr. W. Chollar, appointed August 22, 1866, and reappointed for four years, March 5, 1867, is agent for the Choctaws and Chickasaws; there has been no reason for doubting that he will perform his duties well. Geo. A. Reynolds is special agent for the Seminoles, appointed March 18, 1865, and deserves the commendation of this office.

The second class of Indians belonging to this superintendency comprises the Osages, some three hundred in number, formerly residents of Missouri for the mort part, but ranging over and claiming a vast region in Arkansas and what is now Kansas. They were, by treaty, in 1825, limited to a reserve fifty miles in width, lying upon the south line of Kansas and running west to the Spanish line. They have for many years had the facilities of education furnished them through a Catholic mission, but have profited little by it; are wild Indians, living by the chase, and are the most expert thieves in the country. They sold in 1865 to the United States a strip of land thirty miles wide from the east end of their reserve, and ceded in trust, to be sold for their benefit, another strip twenty miles wide, from the north side. With the avails of this sale they might be put in a way of earning a living by a more settled life if they could be induced to enter upon it, but they show no disposition to do this. The whites are already crowding them from the east and north, and it is probable that ere long it will be necessary for them also to remove south of their present limit and into the "Indian country."

The third class consists of the Quapaws, Senecas and Shawnees, (confederated,) and Senecas. These three bands occupy as many small reservations in the northeast corner of the "Indian country." They have made but limited advances in education, but were obtaining a comfortable livelihood by farming

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and stock-raising before the late war, many of them being quite rich, as they are an industrious people. The Senecas and the Shawnees were from Ohio, removed thence some thirty years ago; and with the Senecas are a small band of Cayugas from New York, who receive an annuity from that State. Though some of the chiefs of these people signed treaties with the rebel agents in 1861, neither they nor any of the people took any hostile part towards the government, and they were obliged to leave their homes as refugees and come north for protection, many of them joining the loyal Indian regiments. Their whole country was devastated by the armies which passed north and south through it, and they have now to begin the world over again. By the recent treaties—now pending in the Senate—they hope to obtain the means of doing this, by selling land, and they ask the government to recompense them to some extent for their losses. George C. Snow has been their agent since August, 1866, and has recently (March 2, 1867) been reappointed for four years and confirmed. He also has charge of the Osages, his jurisdiction being known as the Neosho agency. He is a good officer.

Witchita agency.—This constitutes the fourth class of Indians of the superintendency, and it is made up of numerous fragments of tribes, gathered in the course of years from refugees from Kansas tribes, and bands formerly resident in the "Indian country" and Texas. They were, before the war, living upon the western part of the Choctaw country, leased by the United States from the Choctaws for the purpose, and hence known as the "leased lands;" under the charge of government agents, and in a fruitful country, many of them were in a comparatively prosperous condition. They refused to unite with the southern Indians in their hostile course, and came north into Kansas, where they were furnished with scanty supplies during the war. Among them are, as before noticed, a considerable number of Shawnees and Delawares, who will unite with their tribes if they remove south. Agent Henry Shanklin, appointed May 1, 1866, is in charge, and has shown himself to be a very judicious and faithful officer. He is about to remove his refugees back to the country which they formerly occupied, in time to raise a crop this year. When they shall be again in possession of the means of supplying their daily wants, educational facilities should be provided for them.

The superintendent for the southern superintendency is James Wortham, appointed March 29, 1867, for four years, who has not yet entered upon his duties. He is the *fourth* superintendent within three years.

We come now to several independent agencies.

Green Bay agency, comprising the Stockbriges and Munsees, the Oneidas, and the Menomonees.

The Stockbridges (there is but one Munsee left) were from Massachusetts and New York, and were, with the Brothertowns, located upon a small reservation east of Lake Winnebago, in Wisconsin. After the lapse of some years, the Brothertowns abandoned tribal life, and the others sold their lands, which were of a valuable quality, and where they were living in great comfort, and removed to a new reserve, which they had never seen, and which has proved to be utterly useless for farming purposes. These people are far advanced in civilization, educated and christianized, and abundantly able and willing to take care of themselves, if they only be placed where they can do so. If the pending treaty is ratified and carried into effect, this will be accomplished.

The Oneidas form the greater portion of the old tribe of that name, one of the Six Nations of New York. They have improved much in civilization, though they are too near large towns of the whites and corner groceries for their own good. They have for some time had two schools, conducted by the Episcopalians and the Methodists, the former being quite efficient.

The Menomonees formerly owned a great part of eastern Wisconsin, but are now upon a reserve in the north—too far north, indeed—and the soil too cold

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for their advantage in farming operations. Still, they are doing something; and with the excellent influence of the schools, kept by devoted Catholic women, are advancing in civilization. They are *willing* to do better, and would do better, upon more fertile lands. Morgan L. Martin (appointed May 8, 1866) is the special agent in charge, and is a man of ability and energy, and very useful to the Indians.

Chippewas of the Mississippi.—These Indians are generally divided into three bands, with whom separate treaties have been made at different times, under which treaties large tracts of land in northern Minnesota have come into the possession of the United States; but each of these bands or tribes is again subdivided into numerous smaller ones. Under their treaties, especially those made in 1863 and 1864, arrangements were provided for large expenditures to be made in their behalf for purposes having their establishment upon farms in view; but frequent changes of agents, and some dissatisfaction on the part of the bands, who were expected to enter more particularly upon this work, and many of whom are fair farmers already, have retarded their improvement. The destruction of their mission and school building, (in charge of the Episcopal church, and doing great good among the people,) as the result of the Chippewa raid of 1862, (a brief outbreak, speedily quelled,) has also retarded their advance in civilization, and the doubts and delays in regard to the permanent location of the people have prevented the re-establishment of those institutions. A treaty has recently been made which, if ratified, will greatly benefit the Mississippi bands, to whom these remarks specially refer. The other bands show as yet but little disposition to turn to farming, though the more southern bands do something in that way. The Pembina band have intercourse mostly with the British settlements to the northward.

Joel B. Basset, appointed November 9, 1866, and reappointed for four years March 2, 1867, and confirmed, is the agent of these bands. Though but a brief period in office, he appears to be a valuable officer.

Chippewas of Lake Superior.—These bands comprise other portions of the great Chippewa or Ojibway nation, which was at one time powerful in all the northwest, east of the Mississippi and Red rivers. Those connected with this agency are unfortunately scattered about in small communities here and there, part in northern Wisconsin, and one considerable band (the Boise Fortes) in Minnesota, near the British line; of course it is impossible for any agent to keep a proper supervision over them, or to exercise the influence necessary to their advancement; but some of them are turning their attention to farming in a small way. If these Indians (in Wisconsin) could be concentrated upon one reservation and their funds for beneficial purposes judiciously expended there, there might be some reasonable hopes of improvement.

Luther E. Webb, appointed March 23, 1866, is their agent, and does as well as any one can for these people under the circumstances.

Mackinac agency.—The Indians of this agency, all in Michigan, comprise numerous bands of Chippewas, Ottawas, and Pottawatomies, gradually associated under successive treaties for many years, and gathered upon numerous reservations lying mostly near the coast of Lakes Michigan, Huron, and Superior. Missions of various denominations, and schools, have been established among them for a long time, and a large number of the people are so far educated as to be able to exercise intelligently the elective franchise, to which they are admitted in Michigan. There are many idlers among them, as among white people; but the average value of the products of their industry will compare favorably with that of many white settlements. Most of these people are preparing to abandon their tribal relations, and desire to make arrangements with the government to that end. It is deemed very desirable that such arrangements should be made at as early a day as practicable. Richard M. Smith, appointed June 21, 1866, is their agent, and is a prompt and careful officer, exercising as good supervision

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as is possible over a people so scattered about, at points very distant from each other.

New York agency.—The Indians under charge of this agency are, with the Oneidas in Wisconsin, Cayugas in the Indian country, and a few scattered members of different bands in Kansas, all that remain of the formerly powerful Six Nations of New York, which filled so large a space in the early history of this country. They are living upon a number of reservations of greater or less extent in western New York, have the advantage of the school system of that State, and are for the most part far advanced in civilization, many of them, indeed, being fully equal in every respect to the white race. An old unsettled question between them and the United States exists, arising out of a former treaty in which they proposed to remove to the west, and the Indians have doubtless an equitable claim to a considerable amount. This matter should be settled, as the lapse of time makes it more difficult of adjustment.

One band of this people, not, however, connected with the agency, called the St. Regis band, lives in the northeast, near Plattsburg, partly in New York and partly in Canada. They draw some small annuity from the State. No accounts of them have reached this office of late. H. S. Cunningham, appointed October 25, 1866, is the special agent in charge. His duties are not very onerous, and his tribes require no very strict oversight, but what was to be done has thus far been done with good judgment.

Other Indians not in charge of any agency.—The only Indians not referred to in this sketch, save here and there a few families who remain in the vicinity of the ancient homes of their tribes, are the Cherokees of Georgia, the Seminoles of Florida, and the Miamies of Indiana.

When the Cherokee nation removed to the west, a portion declined to do so, and continued to reside in their old country, in northern Georgia and the adjoining portions of Tennessee and North Carolina. Many of these people have become mixed with the blacks, but many of the full bloods and mixed with whites remain. They have, in common with the rest of the population at the south, suffered greatly by the war, and it is stated that there are some two thousand who might be gathered together and removed to the west. A fund was set apart in one of the treaties for this purpose, but it has been returned to the general fund by the Treasury Department, and will have to be reappropriated.

The Seminoles of Florida are likewise a remnant who refused to remove to the west. Recent estimates reckon their numbers at five hundred to six hundred, but it is deemed very doubtful whether there are so many. We know little of them.

The Miamies of Indiana were left behind when their tribe removed to the west, and received their small annuities at their own homes. They give the government no trouble, and are never heard from except at payments.

I have thus gone over the whole field, and presented a brief notice, in response to the resolution of the Senate, in regard to each of the tribes under charge of the department.

In responding to the call for information under the fifth head of the resolution of the Senate, in which the remarks of the department in reference to the future policy towards, and treatment of, the Indian tribes were requested, I have assumed that the object of the Senate was to obtain the suggestions of the department in regard to individual tribes, and have accordingly so arranged this report. If, however, it was intended that recommendations and suggestions should be furnished, covering the whole ground of the policy of the government towards the Indian tribes, no attempt has been made to this end. The brief time which has elapsed since I entered upon the duties of Commissioner of Indian Affairs not admitting of such deliberate consideration of the subject as its nature and importance demands.

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Trusting that, in view of the brief time afforded for its preparation, this report may prove satisfactory, I have the honor to submit, it with the accompanying tables.

Very respectfully, your obedient servant,

N. G. TAYLOR,
Commissioner.

Hon. O. H. BROWNING,
Secretary of the Interior.

TABLE A.

Table showing the approximate number of persons belonging to each tribe of Indians in the United States, arranged alphabetically.

[NOTE.—Where no statement of population is made opposite the name of the tribe, it is because the tribe is aggregated with others, as noted in table B, under the head of the proper superintendency and agency. In cases where several tribes are thus aggregated, the population of the agency is set opposite the name of the agency *where it first occurs* in this table, and in *italics*.]

Name of tribe or band.	Superintendency.	Agency.	Population.
Alleghany, (Senecas)		New York	845
Alsea	Oregon	*Alsea*	530
Apaches	Arizona		10,000
Apaches, (Jicarilla)	New Mexico	Cimarron	800
Apaches, (Mescaleros)	do	Mescaleros	550
Apaches, (Mimbres)	do		200
Apaches, with Cheyennes of Upper Arkansas. (See Arapahoes)	Central	Arapahoes and Cheyennes	
Arapahoes, (Upper Arkansas)	do	*Arapahoes and Cheyennes*	4,000
Arapahoes, (Upper Platte)	Northern	Upper Platte	750
Arickarees	Dakota	Fort Berthold	1,500
Assinaboines	do	do	2,640
Bannacks, of Nevada	Nevada		1,500
Blackfeet Sioux. (See Sioux)	Dakota		
Blackfeet	Montana	Blackfeet, (at Fort Benton)	2,450
Bloods	do	Blackfeet	2,150
Boise Shoshones. (See Shoshones)	Idaho		
Brunean Shoshones. (See Shoshones)	do		
Caddoes, with Ionies	Southern	Witchita	362
Callapooias	Oregon	*Grande Ronde*	1,144
Capote Utes. (See Utes)	New Mexico		
Captives, (of various tribes)	do		2,000
Cattaraugus, (Senecas)		New York	1,386
Cayugas, with Senecas		New York	150
Cayuses, with Umatillas	Oregon	*Umatilla*	759
Chastas	do	*Siletz*	2,068
Chasta Costas	do	do	
Chehallis	Washington	*Puyallup*	2,000
Cherokees	Southern	Cherokee	14,000
Chetcoes	Oregon	Siletz	
Cheyennes, (Upper Arkansas)	Central	Arapahoe and Cheyenne	
Cheyennes, (Upper Platte)	Northern	Upper Platte	1,800
Chickasaws	Southern	Choctaw and Chickasaw	4,500
Chippewas and Munsees, (Kansas)	Central	Sac and Fox of Mississippi	80
Chippewas, Mississippi bands		Chippewas of Mississippi	2,166
Chippewas, Pillagers, and Lake Winnebagoshish		do	1,899
Chippewas, Red Lake, and Pembina		do	2,114
Chippewas of Lake Superior		*Chippewas of Lake Superior*	4,500
Chippewas, Bois Fort band, with last named		do	
Chippewas of Lake Superior		Mackinac	1,058
Chippewas and Ottawas		do	5,207
Chippewas of Saginaw, Swan Creek, &c		do	1,562
Chippewas, Ottawas, and Pottawatomies		do	232
Choctaws	Southern	Choctaw and Chickasaw	12,500
Clackamas	Oregon	Grande Ronde	
Coahuillas and other bands	California		4,400
Cocopas	Arizona	*River tribes*	9,500
Cœur d'Alenes, Kootenays, &c	Idaho		2,000
Colvilles, &c	Washington	*Fort Colville*	3,400
Comanches, with Kiowas	Central	Kiowas and Comanches	2,800
Cooses	Oregon	Alsea	
Coquilles	do	Siletz	

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TABLE A—Continued.

Name of tribe or band.	Superintendency.	Agency.	Population.
Creeks	Southern	Creek	14,396
Crows	Montana		3,900
Delawares, (Kansas)	Central	Delaware	1,064
Delawares	Southern	Witchita	114
Dalles, band of Wascos	Oregon	*Warm Springs*	1,070
Delmashes	do	Siletz	
Deschutes, band of Walla-Wallas	do	Warm Springs	
Dog River, band of Wascos	do	do	
Dwamish	Washington	*Tulalip*	1,900
Euches	Oregon	Siletz	
Flatheads	Montana	Flathead	558
Flores Creek	Oregon	Siletz	
Goships. (See Weber Utes)	Utah		
Grand River Utes. (See Utes)	Colorado	Grand River and Uintah Utes	
Gros Ventres	Dakota	Fort Berthold	400
Gros Ventres, with Blackfeet	Montana	Blackfeet	1,500
Hoopa Valley	California	Hoopa Valley	623
Hualapais	Arizona	River tribes	
Humboldt River	California	Smith River	625
Ionies. (See Caddoes)	Southern	Witchitas	
Iowas	Northern	Great Nemaha	303
Jicarilla Apaches. (See Apaches)	New Mexico	Cimarron	
Joshuas	Oregon	Siletz	
John Day's band of Walla-Wallas	do	Warm Springs	
Kansas or Kaws	Central	Kansas	670
Kaskaskias, &c	do	Osage River	236
Keechies	Southern	Witchita	144
Kickapoos	Central	Kickapoo	242
King's River and other bands	California		14,900
Kiowas, with Comanches	Central	Kiowas and Comanches	
Klamath	Oregon	*Klamath and Modoc*	4,000
Kootenays. (See Cœur d'Alenes)	Idaho		
Kootenays	Montana	Flathead	287
Lummis	Washington	Tulalip	
Lipans	Southern	Witchita	
Luckimutes	Oregon	Grande Ronde	
Mackenooteways	do	Siletz	
Makahs, (three bands)	Washington	Makah	1,400
Mandans	Dakota	Fort Berthold	400
Maquache Utes. (See Utes)	New Mexico	Cimarron	
Maricopas, with Jirnas	Arizona	Papagos	7,500
Marysville	Oregon	Grande Ronde	
Menomonees		Green Bay	1,376
Mescalero Apaches. (See Apaches)	New Mexico	Mescaleros	
Miamies	Central	Osage River	127
Mimbres Apaches. (See Apaches)	New Mexico		
Mission Indians	California		3,300
Missourias, with Ottoes	Northern	Ottoe and Missouria	
Modocs	Oregon	Klamath and Modoc	
Mohaves	Arizona	River tribes	
Molallas	Oregon	Grande Ronde	
Molels	do	do	
Moquis	Arizona		2,500
Munsees, with Chippewas	Central	Sac and Fox of Mississippi	
Munsees, with Stockbridges. (See Stockbridges)		Green Bay	
Navajoes	New Mexico	Bosque Redondo, &c	7,700
Nestuckias	Oregon	Grande Ronde	
Nez Percés	Idaho	Nez Percés	2,830
Nisquallies, &c	Washington	Puyallup	
Noltnamahs	Oregon	Siletz	
O'Kinakanes	Washington	Fort Colville	
Omahas	Northern	Omaha	997
Oneidas, (Wisconsin)		Green Bay	1,104
Oneidas, (New York)		New York	184
Oneidas, with Onondagas		do	96
Onondagas		do	325
Onondagas, with Senecas		do	138
Ottoes and Missourias	Northern	Ottoe and Missouria	511
Ottawas, (Kansas)	Central	Ottawa	200
Ottawas and Chippewas. (See Chippewas.)		Mackinac	
Osages	Southern	Neosho	3,000
Owen's River	California	*Tule River*	725
Pah-Utes. (See Utes)	Utah		
Papagos	Arizona	Papagos	5,000
Pawnees	Northern	Pawnee	2,750
Pembina, Chippewas. (See Chippewas)		Chippewas of Mississippi	
Pend d'Oreilles	Washington	Fort Colville	
Do	Montana	Flathead	918
Peorias. (See Kaskaskias)	Central	Osage River	
Piankeshaws. (See Kaskaskias)	do	do	

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TABLE A—Continued.

Names of tribes or bands.	Superintendency.	Agency.	Population.
Piedes	Utah		600
Piegans	Montana	Blackfeet	1,870
Pillagers, (Chippewas.) (See Chippewas)		Chippewas of Mississippi	
Pimos	Arizona	Papagos	
Pi-Utes	Nevada	Carson City	4,200
Poncas	Dakota	Ponca	980
Pottawatomies, (Kansas)	Central	Pottawatomies	1,992
Pottawatomies of Huron		Mackinac	46
Pottawatomies of Wisconsin		Pottawatomies and Winnebagoes	650
Pueblos	New Mexico	Pueblos	7,010
Quapaws	Southern	Neosho	350
Quinaielt	Washington	*Quinaielt*	600
Quillehute	do	Quinaielt	
Rogue River	Oregon	Siletz	
Do	do	Grande Ronde	
Sacs and Foxes of Mississippi	Central	Sac and Fox of Mississippi	766
Sacs and Foxes of Missouri	Northern	Great Nemaha	102
Salmon Rivers	Oregon	Grande Ronde	
Santainas	do	do	
Scotons	do	Siletz	
Senecas	Southern	Neosho	130
Senecas, (See Allegany, Cattaraugus, Tonawanda)		New York	
Senecas and Shawnees	Southern	Neosho	210
Seminole	do	Seminole	2,000
Shawnees of Kansas	Central	Shawnee	660
Shawnees of Indian country	Southern	Witchita	520
Shoshones, eastern bands, and Bannacks	Utah	Fort Bridger	4,500
Shoshones, northwestern bands	do		1,800
Shoshones, western bands	do		2,000
Shoshones, (Boise and Bruneau)	Idaho		500
Shoshones, (Kammas Prairie)	do		2,000
Shoshones, (Nevada)	Nevada		2,000
Siletz	Oregon	Siletz	
Sioux, (Santees)	Northern	Niobrara	1,350
Sioux, (Yanctons.) (See Yanctons)	Dakota	Yanctons	
Sioux, (Lower Brulés)	do	Upper Missouri	1,200
Sioux, (Lower Yanctonais)	do	do	2,100
Sioux, (Two Kettles)	do	do	1,200
Sioux, (Blackfeet)	do	do	1,320
Sioux, (Minneconjoux)	do	do	2,220
Sioux, (Onepapas)	do	do	1,800
Sioux, (Ogallallas)	do	do	2,100
Sioux, (Upper Yanctonnais)	do	do	2,400
Sioux, (Sans Arcs)	do	do	1,680
Sioux, (Brules and Ogallallas)	Northern	Upper Platte	7,865
Sioux, (Ogallallas.) (See above)	do	do	
Sioux, (Sissetons and others.) (See note)	Dakota		
Sinselaws	Oregon	Alsea	
Sixes	do	Siletz	
S'Klallams	Washington	S'Kokomish	1,500
S'Kokomish, with S'Klallams	do	do	
Smith River	California	Smith River	
Snakes, (Yahooskin.) (See Klamath)	Oregon	Klamath and Modoc	
Snakes, (Wohlpapee, Wahtatkin, Ilukespiule, and Hoolebooly)	do	do	
Spokanes, with Colville	Washington	Fort Colville	
Stockbridges and Munsees		Green Bay	152
Tawacarroes	Southern	Witchita	151
Tennis band of Wascoes	Oregon	Warm Springs	
Tilamucks	do	Grande Ronde	
Tonawanda, (Senecas)		New York	529
Tonkaways			
Tualatims	Oregon	Grande Ronde	
Tulalips	Washington	Tulalip	
Tule River	California	Tule River	
Tumwaters	Oregon	Grande Ronde	
Tuscaroras		New York	360
Two-took-e-ways	Oregon	Siletz	
Tyghs	do	Warm Springs	
Uintahs, (band of Utes.) (See Utes)	Colorado	Grand River and Uintah Utes	
Ukies	California	*Round Valley*	1,389
Umatillas	Oregon	Umatilla	
Umpquas, (Grave Creek)	do	Siletz	
Umpquas, (Cow Creek)	do	Grande Ronde	
Umpquas and Calapooins	do	do	
Utahs	Utah	Uintah Valley	7,100
Utes, (Weber)	do		1,600
Utes, (Pah-Utes)	do		1,600
Utes, (Piedes)	do		
Utes, (Capote)	New Mexico	Abiquiu	350

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TABLE A—Continued.

Names of tribes or bands.	Superintendency.	Agency.	Population.
Utes, (Webinoche)	New Mexico	Abiquiu	700
Utes, (Maquache)	do	Cimarron	800
Utes, (Grand River and Uintah)	Colorado	Grande River and Uintah Utes	2,500
Utes, (Tabequache)	do	Conejos	2,500
Wacoes	Southern	Witchita	125
Walla-Wallas, three bands	Oregon	Warm Springs	
Do	do	Umatilla	
Wascos	do	Warm Springs	
Washoes	Nevada	Carson City	500
Weas. (See Kaskaskias)	Central	Osage River	
Weber Utes. (See Utes)	Utah		
Webinoches. (See Utes)	New Mexico	Abiquiu	
Winnebagoes	Northern	Winnebago	1,750
Winnebagoes of Wisconsin		Winnebagoes and Pottawatomies	700
Winnebagoshish, (band of Chippewas)		Chippewas of Mississippi	
Witchitas			392
Wylackies	California	Round Valley	
Wyandotts. (See note.)	Southern	Neosho	
Yakamas and others	Washington	Yakama	3,000
Yamhills	Oregon	Grande Ronde	
Yancton Sioux	Dakota	Yancton	2,530
Yavapais	Arizona	River Tribes	
Yumas	do	do	
Add estimated for sundry bands in Oregon			800
Add estimated for numerous small bands in Washita agency			1,000
Total as per table B			295,774

NOTE.—To the above total should be added about the following numbers for tribes and bands of which no census has been taken, or which are not definitely in charge of any agent:

Comanches, ranging in Northwest Texas, say	4,000
Cherokees in Georgia, North Carolina, &c., say	2,000
Sacs and Foxes in Iowa, say	224
Seminoles in Florida, say	500
Sisseton and other Sioux in Northeast Dakota, &c	3,500
St. Regis, remnant of old Canada nations, in New York	677
Wyandotts, remnant of old tribe, say	250
Grand total as estimated	306,475

TABLE B.

Table showing the population of the various Indian tribes, by superintendencies, corrected by the reports of 1866.

Superintendency and agency.	Tribes.	Population.	Total.
WASHINGTON.			
Tulalip	Tulalips, Lummis, &c	1,900	
S'Kokomish	S'Klallams, &c	1,500	
Makah	Makahs, &c	1,400	
Puyallup	Puyallups, Nisquallies, &c	2,000	
Quinaielt	Quinaielts, Quilehutes, &c	600	
Yakama	Yakamas, &c	3,000	
Fort Colville	Spokanes, Colvilles, Pend d'Oreilles, &c	3,400	
			14,800
OREGON.			
Umatilla	Walla-Wallas, Cayuses, and Umatillas	759	
Warm Spring	Wacoes, Deschutes, &c	1,070	
Grande Ronde	Fifteen tribes and bands	1,144	
Alsea	Cooses, Umpquas, &c	530	
Siletz	Fourteen tribes and bands	2,068	
Klamath	Klamaths, Modocs, and four bands of Snakes	4,000	
	Other Indians	900	
			10,471

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TABLE B—Continued.

Superintendency and agency.	Tribes.	Population.	Total.
CALIFORNIA.			
Round Valley	Pitt Rivers, Wylackies, Ukies, &c	1,389	
Hoopa Valley	Various bands	623	
Smith River	Humboldt and Wylackies	625	
Tule River	Owens River and Tule River	725	
Mission Indians	Various bands	3,300	
	Coahuillas and other tribes	4,400	
	King River and other bands	14,900	
ARIZONA.			25,962
Papagos	Papagos 5,000, Pimos and Maricopas 7,500	12,500	
River tribes	Yumas, Mohaves, &c	9,500	
	Apaches	10,000	
	Moquis	2,500	
NEVADA.			34,500
Carson City	Pi-Utes	4,200	
	Washoes	500	
	Bannacks	1,500	
	Shoshones	2,000	
UTAH.			8,200
Fort Bridger	Eastern Shoshones and Bannacks	4,500	
	Northwestern Shoshones	1,800	
	Western Shoshones	2,000	
	Goships and Weber Utes	1,600	
Uintah Valley	Utahs	7,100	
	Piedes	600	
	Pah-Utes	1,600	
NEW MEXICO.			19,800
Bosque Redondo	Navajoes at reservation	6,500	
	Navajoes at large	1,200	
Pueblos	Pueblos	7,010	
Abiquiu	Capote Utes	350	
	Webinoche Utes	700	
Cimarron	Maquache Utes	600	
	Jicarilla Apaches	800	
Mescalero Apache	Mescalero Apaches	550	
	Mimbres Apaches	200	
	Captives held in peonage	2,000	
COLORADO.			19,910
Denver	Grand River and Uintah Utes	2,500	
Conejos	Tabequache Utes	2,500	
DAKOTA.			5,000
Yancton	Yancton Sioux	2,530	
Ponca	Poncas	980	
Upper Missouri Sioux	Lower Brulés	1,200	
	Lower Yanctonais	2,100	
	Two Kettles	1,200	
	Blackfeet	1,320	
	Minneconjoux	2,220	
	Uncpapas	1,800	
	Ogallallas	2,190	
	Upper Yanctonais	2,400	
	Sans Arcs	1,680	
Fort Berthold	Arickarees	1,500	
	Gros Ventres	400	
	Mandans	400	
	Assinaboines	2,640	
IDAHO.			24,470
Nez Percés	Nez Percés	2,830	
	Coeur d'Alenes, Kootenays, &c	2,000	
	Boise and Bruneau Shoshones	500	
	Kammas Prairie Shoshones	2,000	
MONTANA.			7,330
Flathead	Flatheads	558	
	Upper Pend d'Oreilles	918	
	Kootenays	287	
Blackfeet	Blackfeet	2,450	
	Piegans	1,870	
	Bloods	2,150	
	Gros Ventres	1,500	
	Crows	3,900	
			13,633

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TABLE B—Continued.

Superintendency and agency.	Tribes.	Population.	Total.
NORTHERN.			
Winnebago	Winnebagoes	1,750	
Omaha	Omahas	997	
Ottoe	Ottoes and Missourias	511	
Pawnee	Pawnees	2,750	
Great Nemaha	Sacs and Foxes of Missouri	102	
	Iowas	303	
Upper Platte	Brulé and Ogallalla Sioux	7,865	
	Cheyennes	1,800	
	Arapahoes	750	
Santee Sioux, (Niobrara)	Santee Sioux	1,350	
			18,178
CENTRAL.			
Pottawatomie	Pottawatomies	1,992	
Sac and Fox	Sacs and Foxes of Mississippi	766	
	Chippewas and Munsees	80	
Osage River	Miamies	127	
	Peorias, Piankeshaws, Kaskaskias, and Weas	230	
Shawnee	Shawnees	660	
Delaware	Delawares	1,064	
Kansas	Kansas or Kaws	670	
Kickapoo	Kickapoos	242	
Ottawa	Ottawas	200	
Kiowa and Comanche	Kiowas and Comanches	2,800	
Arapahoe, Cheyenne, and Apache	Arapahoes, Cheyennes, and Apaches	4,000	
			12,837
SOUTHERN.			
Creek	Creeks	14,396	
Cherokee	Cherokees	14,000	
Choctaw and Chickasaw	Choctaws	12,500	
	Chickasaws	4,500	
Seminole	Seminoles	2,000	
Neosho	Osages	3,000	
	Quapaws	350	
	Senecas and Shawnees	210	
	Senecas	130	
Witchitas	Witchitas	392	
	Keechies	144	
	Wacoes	135	
	Tawacairoes	151	
	Caddoes and Ionies	362	
	Shawnees	520	
	Delawares	114	
	Other Indians	1,000	
			53,904
INDEPENDENT AGENCIES.			
Green Bay	Stockbridges and Munsees	152	
	Oneidas	1,104	
	Menomonees	1,376	
			2,632
Chippewas of Mississippi	Mississippi bands	2,166	
	Pillager and Winnebagoshish bands	1,899	
	Red Lake bands	1,183	
	Pembina bands	931	
			6,179
Chippewas of Lake Superior	Various bands	.....	4,500
Wandering bands in Wisconsin	Winnebagoes	700	
	Pottawatomies	650	
			1,350
Mackinac	Chippewas of Lake Superior	1,058	
	Ottawas and Chippewas	5,207	
	Chippewas of Saginaw, &c	1,562	
	Chippewas, Ottawas, and Pottawatomies	232	
	Pottawatomies of Huron	46	
			8,105
New York	Cattaraugus	1,386	
	Cayugas with Senecas	150	
	Onondagas with Senecas	138	
	Allegany	845	
	Tonawandas	529	
	Tuscaroras	360	
	Oneidas	184	
	Oneidas with Onondagas	96	
	Onondagas	325	
			4,013
	Total	.....	295,774

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TABLE C.

Table showing the location and extent of Indian reservations, whether held in common or in severalty, with references to the treaty or other arrangements setting the same apart for the use of the Indians.

Superintend'cy and agency.	Tribes.	Where located.	Area.	How held.	References and remarks.
WASHINGTON.					
Tulalip	Tulalips, Lummis, &c	N. W. Washington Territory	197, 120 acres	In common	Page 928, vol. 12, Statutes at Large.
S'Kokomish	Sklallams, &c	do	4, 000 acres	do	Page 933, vol. 12, Statutes at Large.
Makah	Makahs, &c	Near Cape Flattery	20 square miles	do	Page 939, vol. 12, Statutes at Large.
Puyallup	Puyallups, Nisquallies, &c	N. W. Washington Territory	4, 480 acres	do	Page 1132, vol. 10, Statutes at Large.
Quinaielt	Quinaielts, Quilehutes, &c	do	3, 840 acres	do	Page 971, vol. 12, Statutes at Large.
Yakama	Yakamas, &c	Centre of Washington Ter	2, 000 square miles	do	Page 952, vol. 12, Statutes at Large.
Chehallis	Chehallis, &c	S. W. Washington Territory	216 square miles	do	Action of the department.
Fort Colville	Spokanes				No treaty; no reservation.
OREGON.					
Umatilla	Walla-Wallas, Umatillas, &c	N. E. Oregon	800 square miles	In common, (about being divided.)	Page 946, vol. 12, Statutes at Large.
Warm Springs	Wascos, Deschutes, &c	N. Oregon	1, 600 square miles	In common	Page 964, vol. 12, Statutes at Large.
Grande Ronde	15 tribes and bands	N. W. Oregon	108 square miles	do	Page 1144, vol. 10, Statutes at Large.
Alsea, Siletz	Cooses, Umpquas, &c.; 14 tribes and bands.	W. Oregon	1, 720 square miles	do	Set apart under treaty of August 11, 1855; treaty not ratified, but reservation occupied by the Indians.
Klamath	Klamaths, Modocs, and 4 bands of Snakes.	S. W. Oregon	1, 200 square miles, including lake.	do	Treaty of October 14, 1864, not published in statutes.
CALIFORNIA.					
Round Valley	Pitt River, Wylackies, &c	N. E. California	25, 000 acres	do	Set apart under act of Congress, (page 39, vol. 13, Statutes at Large.
Hoopa Valley	Various bands	N. W. California	38, 400 acres	do	Set apart.
Smith River	Humboldt and Wylackies	do	1, 387 acres	do	Leased; ordered to be abandoned.
Tule River	Owen River and Tule River	S. California	1, 280 acres	do	Leased temporarily.
Also a reservation at		Cape Mendocino	2, 500 acres		Abandoned and subject to sale.
ARIZONA.					
River tribes	Mohaves, &c	Colorado river	75, 000 acres	In common	Page 59, pamphlet edition laws of 1865.
Papagos	Pimos and Maricopas	Gila river	64, 000 acres	do	Page 401, vol. 11, Statutes at Large.
NEVADA.					
Carson City	Pi-Utes	N. W. Nevada, (Truckee River Timber Reserve.)	20, 000 acres	do	President of the United States, April 28, 1864.

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TABLE C—Continued.

Superintend'cy and agency.	Tribes.	Where located.	Area.	How held.	References and remarks.
Carson City	Pi-Utes	Pyramid lake	500 square miles, including lake.	In common	Action of the department.
		Walker river	500 square miles, including lake.		Do.
UTAH.					
Uintah Valley	Utahs, Utes, &c	Uintah Valley	3,186 square miles	In common	October 3, 1861; order of President.
		Central Utah, (Spanish Fork)	36 square miles	do	Ordered sold.
		Corn creek, (Central Utah)	144 square miles	do	Do.
NEW MEXICO.					
Navajoes	Navajoes	River Pecos, (Bosque Redondo)	1,600 square miles	do	Set apart by President, January 15, 1864, for Mescalero Apaches.
Pueblos	Pueblos	Central and W. New Mexico	439,664 acres	do	Confirmed by United States patents in 1864, under old Spanish grants. See Statutes at Large, vol. 11, page 374.
Cimarron	Jicarilla and Mohuache Apaches.	N. E. New Mexico	1,280 acres		Leased for agency.
	Mimbres Apaches	S. W. New Mexico	Unknown		Set apart by action of department; not occupied.
	Gila Apaches	do	144,000 acres		Do. do.
COLORADO.					
Conejos	Tabequache Utes	S. W. Colorado	8,800 square miles	In common	Page 674, vol. 13, Stat. at Large, (amendment.)
DAKOTA.					
Yancton	Yancton Sioux	S. E. Dakota	400,000 acres	do	Treaty, page 744, vol. 11, Statutes at Large.
Ponca	Poncas	do	57,600 acres	do	Treaty, page 997, vol. 12, Statutes at Large.
Also reservation at		Crow creek	550,000 acres		Set apart under act of Congress, page 809, vol. 12, Statutes at Large; abandoned by Sioux and Winnebagoes; now occupied by part of of Upper Missouri Sioux.
IDAHO.					
Nez Percés	Nez Percés	W. Idaho	10,000 square miles	In common	So under old treaty of 1855, vol. 12, page 959; but under new treaty, not yet fully ratified, reduced to a much smaller extent.
	Bois and Bruneau Shoshones	S. E. Idaho	3,650 square miles		Recommended April 3, 1867; not yet set apart.
	Cœur d'Alenes, &c	N. Idaho	400 square miles		Do. do.
MONTANA.					
Flathead	Flatheads, Kootenays, &c	W. Montana	5,950 square miles	In common	Treaty, page 976, vol. 12, Statutes at Large.
Blackfeet	Blackfeet bands	N. Montana, (near Fort Benton)	Two sections		Set apart for farm under article 10 of treaty, page 659, vol. 11, Statutes at Large.

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NORTHERN.					
Winnebago	Winnebagoes	E. Nebraska	200 square miles	In common	Treaty with Omahas, p. 13, pam. ed. laws, 1866.
Omaha	Omahas	do	540 square miles	In severalty, (partly)	Do. do.
Ottoe	Ottoes and Missourias	Kansas and Nebraska	250 square miles	In common	Treaty, page 605, vol. 11, Statutes at Large.
Pawnee	Pawnees	E. Nebraska	450 square miles	do	Treaty, page 729, vol. 11, Statutes at Large.
Great Nemaha	Sacs and Foxes of Missouri	S. E. Dakota	16,000 acres	do	Treaty, page 1172, vol. 12, Statutes at Large.
	Iowas	do	16,000 acres	do	Do. do.
Santee Sioux		Niobrarah river	130 square miles	do	Reserved from sale by President, March 1, 1866.
CENTRAL.					
Pottawatomie	Pottawatomies	E. Kansas	900 square miles	Part in severalty and part in common.	Treaty, page 854, vol. 9, Statutes at Large.
Sac and Fox	Sacs and Foxes of Mississippi	Central Kansas	135 square miles	In common	Treaty, July 9, 1860, (not in Statutes.)
	Chippewas and Munsees	do	5,760 acres	In severalty	Treaty, page 1106, vol. 12, Statutes at Large.
Osage River	Miamies	E. Kansas	57,000 acres	In severalty, (mostly.)	Treaty, page 1093, vol. 10, Statutes at Large. Much of this has been sold to whites.
	Peorias, Kaskaskias, &c	do	54,880 acres	do	Treaty, page 1082, vol. 10, Statutes at Large. Much of this has been sold to whites.
Shawnee	Shawnees	do	200,000 acres	At last reports 57,531 acres in common, and 138,146 acres in severalty. A large number of new select'ns have been made.	Treaty, page 1054, vol. 10, Statutes at Large.
Delaware	Delawares	do	105,000 acres	In severalty, (mostly.)	Treaty, page 1129, vol. 12, Statutes at Large. New treaty provides for sale of reserve.
Kansas	Kansas or Kaws	W. Kansas	80,700 acres	In common	Treaty, page 1111, vol. 12, Statutes at Large.
Ottawa	Ottawas	E. Kansas	76,000 acres	Part in each manner.	Treaty, page 432, vol. 7, Statutes at Large, and subsequent action of department. Much of this has been sold to whites.
Kickapoo	Kickapoos	N. E. Kansas	28,580 acres	do	Treaty, page 623, vol. 13, Statutes at Large.
Kiowas and Comanches	Kiowas and Comanches	Texas and Indian country		In common	Treaty of 1865. Provides a hunting range for these tribes, covering, however, a large area of land to which the United States have no title whatever.
Arapahoe and Cheyenne	Arapahoes, Cheyennes, and Apaches.	Kansas and Indian country		do	Treaty of 1865; same remarks as above. Part of the reserve is in the Cherokee country, part on the Osage lands, and part in Kansas, and the Indians agree to an amendment to this treaty which shuts them out of Kansas.
SOUTHERN.					
Creek	Creeks	Indian country	5,074 square miles	do	Treaty, page 418, vol. 7, Statutes at Large, and page 101, pamphlet laws of 1866.
Cherokee	Cherokees	do	21,400 square miles	do	Treaty, page 474, vol. 7, Statutes at Large.
Choctaw and Chickasaw	Choctaws and Chickasaws	do	10,427 square miles	do	Treaty, page 611, vol. 11, Statutes at Large, and page 85 pamphlet edition laws of 1866.
Seminole	Seminoles	do	200,000 acres	do	Treaty, 1866, pamphlet edition laws of 1866.
Neosho	Osages	S. Kansas	4,380 square miles	do	Treaty of 1865, not printed in laws.
	Quapaws	Indian country	96,000 acres	do	Treaty, page 425, vol. 7, Statutes at Large.

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TABLE C—Continued.

Superintend'cy and agency.	Tribes.	Where located.	Area.	How held.	References and remarks.
Neosho	Senecas and Shawnees	Indian country	60,000 acres	In common	Treaty, page 411, vol. 7, Statutes at Large.
	Senecas	do	65,000 acres	do	Do. do.
INDEPENDENT AGENCIES.					
Green Bay	Stockbridges and Munsees	N. Wisconsin	46,080 acres	In common	Treaty, page 664, vol. 11, Statutes at Large. New treaty pending.
	Oneidas	do	61,000 acres	do	Treaty, page 567, vol. 7, Statutes at Large.
	Menomonees	do	230,400 acres	do	Treaty, page 1065, vol. 10, Statutes at Large.
Chippewas of Mississippi	Mississippi bands	N. Minnesota	3,200 square miles	do	Treaty, page 693, vol. 13, Statutes at Large. New treaty pending.
	Pillager and Lake Winnebagoshish bands.	do	400 square miles	do	Treaty, page 1166, vol. 10, Statutes at Large.
	Red Lake bands	do	5,000 square miles	do	Treaty, page 667, vol. 13, Statutes at Large.
Chippewas of Lake Superior	Chippewas of Lake Superior	N. Wisconsin, viz:			
		Lake Flambeau	144 square miles	do	Treaty of 1854, vol. 10, page 1109, Statutes at Large.
		Lake Court Oreilles	120 square miles	do	
		Bad River	210 square miles	do	
		Fond du Lac	156 square miles	do	
Mackinac	Bois Fort Chippewas	N. Minnesota	123,000 acres	do	Treaty, page 81, laws of 1866, pamphlet edition.
(The lands set apart for the bands of this agency are scattered about the State of Michigan in some 14 reserves.)	Chippewas of Lake Superior	Michigan	90 square miles	do	Treaty, page 1109, vol. 10, Statutes at Large.
	Ottawas and Chippewas	do	900 square miles	do	Treaty, page 621, vol. 11, Statutes at Large.
	Chippewas of Saginaw, &c	do	100,000 acres	do	Treaty, page 3, pamphlet edition laws of 1866; "treaties."
	Chippewas, Ottawas, and Pottawatomies.	do	Included in Ottawas and Chippewas.	do	Treaty, page 621, vol. 11, Statutes at Large.
New York	Cattaraugus, (Senecas,) Cayugas. Onondagas.	W. New York	21,680 acres	do	Page 71, vol. 7, Statutes at Large.
	Allegany, (Senecas)	do	30,469 acres	do	By arrangement with State of New York.
	Tonawanda, (Senecas)	do	7,000 acres	do	Page 971, vol. 12, Statutes at Large.
	Tuscaroras	do	6,000 acres	do	By arrangement with State of New York.
	Oneidas	Central New York	288 acres	do	Do. do.
	Onondagas, Oneidas with Onondagas.	do	6,100 acres	do	Do. do.

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TABLE C.—*Ranges of country occupied or claimed by the tribes described in treaties in force, or by agreement with the tribes.*

Treaties.	Tribe.	Where located.	Range of country, &c.
Treaty of Fort Laramie, made Oct. 17, 1851, not ratified; amended by the Senate, and stipulations, as amended, fulfilled by government.	Sioux bands	Dakota	Commencing at mouth of White Earth river on the Missouri; thence southwest to forks of Platte river; thence up north fork of Platte to the Red Butte; thence along Black Hills to headwaters of Heart river; down said river to its mouth; thence down the Missouri to place of beginning.
Do	Gros Ventres, Arickarees, and Mandans.	do	Commencing at mouth of Heart river; thence up the Missouri to the mouth of Yellowstone river; thence up Yellowstone to mouth of Powder river; thence southeast to headwaters of Little Missouri river; thence along the Black Hills to head of Heart river; and down said river to place of beginning.
Do	Assinaboines	do	Commencing at mouth of Yellowstone river; thence up the Missouri to mouth of Muscle Shell river; thence southeast to headwaters of Big Dry creek; thence down said creek to the Yellowstone, and down the Yellowstone to place of beginning.
Do	Crows	Montana, &c	Commencing at the mouth of Powder river; thence up that stream to its source; thence along the Black Hills and Wind River mountains to headwaters of the Yellowstone; thence down that stream to mouth of Twenty-five-Yard creek; thence across to headwaters of Muscle Shell river; down that stream to its mouth; thence to headwaters of Big Dry creek, and down to the mouth of that stream.
Blackfeet treaty of 1855	Blackfeet bands, Bloods, Piegans, and Gros Ventres.	Montana	Commencing where the British line crosses the Rocky mountains near 114° west longitude; thence east to a point drawn north and south through the mouth of Milk river; thence south on that line to the Missouri; thence up the Missouri to the mouth of Muscle Shell river; thence up that stream to its bend; thence direct to Hell Gate Pass; thence up the Rocky mountain line to place of beginning.
Shoshone treaties of 1863. See reference to those tribes in the text of this report.	Eastern bands of Shoshones and Bannocks.	Utah, Colorado, Idaho, and Dakota.	Commencing at Bridger's Pass; thence north to Independence Rock; thence up the line of the Rocky mountains to about 112° west longitude; thence southwest to Salmon Falls, on Snake river; thence up that stream to Fall creek; thence southeast to Utah lake; thence east to headwaters of North Platte, in North Park; thence down that stream to place of beginning.
Do	Northwestern Shoshones, (page 663, vol 13, Statutes at Large.)	Utah and Idaho	West by Raft river and east by Porte Neuf mountains.
Do	Shoshones, Goships, (page 682, vol. 13, Statutes at Large.)	Utah	North by middle of the Great Desert; west by Steptoe valley; south by Green mountains; east by Salt Lake, Tuilla, and Rush valleys.
Do	Western Shoshones	Nevada	Lies between 115° and 117° west longitude, and 38° 30′ and 41° N. lat.
Utes	Sundry bands	Utah	General limits agreed upon in interviews with them by Governor Doty.
	Chippewas, (Pembina bands)	Minnesota	Still hold a tract of country in the extreme northern part of Minnesota.
	Sioux	Dakota	There remains a considerable tract of country in eastern Dakota, claimed by the Sioux, who were parties to the treaty of 1858, locating them in Minnesota. The range of country is undefined, and the Sioux, who were parties to the Laramie treaty, as well as the Yanctons, have always used this region as a common hunting ground. In this region will have to be located reservations for the Minnesota Sioux. A treaty with that intent is now pending.

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TABLE D.

Statement showing the liabilities of the United States to Indian tribes under stipulations of treaties, for and after the fiscal year ending July 1, 1868.

Names of tribes.	Description of annuities, stipulations, &c.	Reference to laws; Statutes at Large.	Number of instalments yet unappropriated, explanations, &c.	Annual amount necessary to meet stipulations, indefinite as to time, now allowed, but liable to be discontinued.	Aggregate of future appropriations that will be required during a limited number of years to pay limited annuities incidentally necessary to effect the payment.	Amount of annual liabilities of a permanent character.	Amount held in trust by the United States on which five per cent. is annually paid; and amounts which, invested at five per cent., would produce permanent annuities.
Arapahoes, Cheyennes, and Apaches.	Forty instalments, being an amount equal to $20 per capita for 3,600 persons, under the direction of the Secretary of the Interior.	Treaty not yet published. Pamphlet copy of laws, 1866, page 33; treaties.	7th article treaty Oct. 14, 1865; thirty-eight instalments, estimated at $72,000, yet unappropriated.* 2d article treaty Oct. 17, 1865; by which treaty the Apaches became confederated with the Arapahoes and Cheyennes.	.....	$2,736,000 00	.....	.....
Do.....	For this amount, or so much thereof as may be necessary, for transportation of goods, provisions, &c.	.....	7th article treaty Oct. 14, 1865	$23,500 00	.....	.....	.....
Comanches and Kiowas.	Forty instalments, being an amount equal to $10 per capita for 4,000 persons.	Pamphlet copy of laws, 1866, page 35; treaties.	5th article treaty Oct. 18, 1865; thirty-eight instalments unappropriated, estimated at $40,000.†	.....	1,520,000 00	.....	.....
Do.....	For transportation of goods, provisions, &c.....	....do	5th article treaty Oct. 18, 1865	8,000 00	.....	.....	.....
Calapooias, Molallas, and Clackamas, of Willamette valley.	Five instalments of the third series of annuity for beneficial objects.	Vol. 10, page 1142..	2d article treaty Jan. 22, 1855; two instalments unappropriated, estimated at $6,500, and five of $5,500 each.	.....	40,500 00	.....	.....
Chasta, Scoton, and Umpqua Indians.	$2,000 annually for fifteen years.....	Vol. 10, page 1122..	3d article treaty Nov. 18, 1854; two instalments yet to be appropriated.	.....	4,000 00	.....	.....
Do.....	Support of schools, physician, purchase of medicines, &c., and farmer, for fifteen years.	Vol. 10, page 1123..	5th article same treaty; two appropriations yet due. Estimated for schools, $1,200; physician, &c., $1,500; farmer, $1,000.	.....	7,400 00	.....	.....
Chippewas of Saginaw, Swan creek, and Black river.	Support and maintenance of a manual-labor school, $20,000.	Pamphlet copy of laws, 1866, page 4; treaties.	4th article treaty Oct. 18, 1864; $2,000 to be appropriated annually until the $20,000 shall have been expended; the first appropriation yet to be made.‡	.....	20,000 00	.....	.....

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Chippewas, Menomonees, Winnebagoes, and New York Indians.	Education during the pleasure of Congress	Vol. 7, page 304....	5th article treaty Aug. 11, 1827....	1,500 00	.....	.....	.....
Chippewas of Lake Superior.	Twenty instalments in coin, goods, implements, &c., and for education.	Vol. 10, page 1110..	4th article treaty Sept. 30, 1854; seven instalments yet unappropriated, estimated at $19,000.	.....	133,000 00	.....	.....
Do.....	Twenty instalments for six smiths and assistants, and for iron and steel.	Vol. 10, pages 1109 and 1111.	2d and 5th articles treaty Sept. 30, 1854; seven instalments yet unappropriated, estimated at $6,360 each.	.....	44,520 00	.....	.....
Do.....	Twenty instalments for a seventh smith and assistant, &c.	Vol. 10, page 1111..	Same articles and treaty; nine instalments unappropriated, estimated at $1,060.	.....	9,540 00	.....	.....
Do.....	For support of a smith, assistant, and shop, and pay of two farmers, during the pleasure of the President.	Vol. 10, page 1112..	12th article same treaty; estimated at $2,260 per annum.	2,260 00	.....	.....	.....
Do.....	For insurance transportation, &c. of annuities..	Vol. 10, page 1111..	Same treaty; estimat'd at $5,762 63 per annum for seven years.	.....	40,338 41	.....	.....
Chippewas—Bois Ft. band.	Twenty instalments of annuity in money, goods and other articles, in provisions, ammunition and tobacco.	Pamphlet copy of laws of 1866; page 82; treaties.	3d article treaty April 7, 1866; annuity, $3,500; goods, &c., $6,500; provisions, ammunition, and tobacco, $1,000; eighteen instalments unappropriated.	.....	198,000 00	.....	.....
Do.....	Twenty instalments for a blacksmith and assistant, and for tools, iron, &c.	....do.....	Same article and treaty; eighteen instalments unappropriated, estimated at $1,500 each.	.....	27,000 00	.....	.....
Do.....	Twenty instalments for support of schools, instruction of the Indians in farming, purchase of seeds, tools, &c.	....do.....	Same article and treaty; eighteen instalments unappropriated, estimated at $1,600.	.....	28,800 00	.....	.....
Do.....	For insurance, transportation, &c., of annuities and provisions.	...do.....	3d and 6th articles said treaty; eighteen years, estimated at $1,500 per annum.	.....	27,000 00	.....	.....
Chippewas of the Mississippi.	Money, goods, support of schools, provisions and tobacco.	Vol. 7, page 592; vol. 10, pages 86 and 1111.	4th article treaty October 4, 1842; 8th article treaty September 30, 1854; and 3d article treaty May 7, 1864; in money, $4,166 67; goods, $3,500; for schools, $666 67; provisions and tobacco, $666 67; nine instalments of the second series at $9,000 01 each, to be appropriated.	.....	81,000 09	.....	.....

* By the 2d article of the treaty of October 14, 1865, the Indians, parties thereto, agree to remove, whenever directed by the President, to a certain defined tract of country as their reservation; and it is stipulated in 7th article that, from and after such removal, said Indians shall receive $40 per capita.

† It is stipulated that, from and after the removal of these Indians to their reservations, as provided by the 2d article of the treaty of October 18, 1865, they shall be paid a per capita of $15.

‡ It is provided by the 5th article of said treaty that the Missionary Society of the Methodist Episcopal Church shall, upon conditions, be intrusted with the management of the school, and be paid annually $2,000 until the $20,000 shall have been expended; but should it fail to accept the trust within one year after the ratification (August 16, 1866) of the treaty, the said $20,000 is to be placed to the credit of the educational fund of said Indians, to be expended as the Secretary of the Interior may deem advisable.

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D.—*Statement showing the present liabilities of the United States to Indian tribes, &c.*—Continued.

Names of tribes.	Description of annuities, stipulations, &c.	Reference to laws; Statutes at Large.	Number of instalments yet unappropriated; explanations, &c.	Annual amount necessary to meet stipulations, indefinite as to time, now allowed, but liable to be discontinued.	Aggregate of future appropriations that will be required during a limited number of years to pay limited annuities incidentally necessary to effect the payment.	Amount of annual liabilities of a permanent character.	Amount held in trust by the United States on which five per cent. is annually paid; and amounts which, invested at five per cent., would produce permanent annuities.
Chippewas of the Mississippi—Continued.	Two farmers, two carpenters, two smiths and assistants, iron and steel.	Vol. 7, page 592; vol. 10, pages 86 and 1111.	Same treaties and articles; farmers, $333 33; smiths, &c., $666 67; carpenters, $400; nine instalments of the second series, at $1,400 each, to be appropriated.	.....	$12,600 00	.....	.....
Do.....	Twenty instalments of annuity in money, $20,000 each.	Vol. 10, page 1167..	3d article treaty Feb. 22, 1855; seven instalments to be appropriated.	.....	140,000 00	.....	.....
Do.....	Forty-six instalments of annuity in money, $1,000 each.*	Vol. 9, page 904....	3d article treaty Aug. 2, 1847; twenty-five instalments to be appropriated.	.....	25,000 00	.....	.....
Do.....	For insurance, transportation, &c., of annuities, goods, and provisions.	Vol. 10, page 1169..	5th article treaty Feb. 22, 1855; for nine years, estimated at $3,866 75 per annum.	.....	34,800 75	.....	.....
Chippewas—Pillager and Lake Winnebagoshish bands.	Thirty instalments in money, goods, and for "purposes of utility."	Vol. 10, page 1168..	3d article treaty Feb. 2, 1855; money, $10,666 67; goods, $8,000; and "purposes of utility," $4,000. Seventeen instalments of $22,666 67 to be appropriated.	.....	385,333 39	.....	.....
Do.....	Twenty instalments of $3,000 each, for purposes of education.	....do.....	Same article and treaty; seven instalments to be appropriated.	.....	21,000 00	.....	.....
Do.....	Support of two smiths and shops, fifteen instalments of $2,120 each.	....do.....	Same article and treaty; two instalments to be appropriated.	.....	4,240 00	.....	.....
Do.....	Engineer at Leech lake for ten years at $600 per annum.	....do.....	Same article and treaty; two instalments to be appropriated.	.....	1,200 00	.....	.....
Chippewas of the Mississippi and Pillager and Lake Winnebagoshish bands of Chippewas in Minnesota.	Ten instalments of $1,500 each, for furnishing said Indians with oxen, farming implements, &c.	Vol. 13, page 694...	5th article treaty May 7, 1864; six instalments yet to be appropriated.	.....	9,000 00	.....	.....
Do.....	Support of two carpenters, two blacksmiths, four farm laborers, and one physician, for ten years.	....do.....	5th article treaty May 7, 1864; estimated at $7,700 per annum; six instalments yet to be appropriated.	.....	46,200 00	.....	.....

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Do	Support of a saw-mill, $1,000 annually, so long as the President of the United States may deem it necessary.	....do	6th article treaty May 7, 1864	$1,000 00			
Do	Pay of services and travelling expenses of a board of visitors to attend all annuity payments, to inspect the fields, buildings, &c.	....do	7th article treaty May 7, 1864; board of five visitors, $5 per day each, for 20 days' service, and 300 miles of travel for each, at 10 cents per mile.	650 00			
Do	Pay of female teachers, "who shall teach Indian girls domestic economy," at the rate of $10 per month.	Vol. 13, page 695	13th article treaty May 7, 1864; the expenditure not to exceed $1,000 per annum; the President may suspend or annul this article whenever deemed expedient.	1,000 00			
Chippewas of Red Lake and the Pembina tribe of Chippewas.	$10,000 as annuity to be paid per capita to the Red Lake band, and $5,000 to the Pembina band, during the pleasure of the President.	Vol. 13, pages 668 and 689.	3d article treaty October 2, 1863, and 2d article supplementary treaty April 12, 1864; annual appropriation required.	15,000 00			
Do	Fifteen instalments of $12,000, for the purpose of supplying these bands with gilling twine, cotton maitre, calico linsey, blankets, sheetings, &c.	Vol. 13, page 689	3d article supplementary treaty April 12, 1864; for Red Lake band, $8,000; Pembina band, $4,000; eleven instalments of $1,200 yet to be appropriated.		$132,000 00		
Do	One blacksmith, one physician, &c., one miller, $3,900; iron, steel, and other articles, $1,500; and for carpentering, &c., $1,000; fifteen instalments for said purposes.	Vol. 13 page 690	4th article supplementary treaty April 12, 1864; eleven instalments of $6,400 yet to be appropriated.		70,400 00		
Do	Pay of services and travelling expenses of a board of visitors to attend their annuity payments, inspect the fields, buildings, &c.	Vol. 13, page 668	6th article treaty October 2, 1863; eleven instalments of $390 yet to be appropriated.		4,290 00		
Do	For insurance and transportation of annuity goods, provisions, iron and steel, &c.	Vol. 13, pages 689 and 690.	3d and 4th articles supplementary treaty April 12, 1864; annual appropriation required.	5,000 00			
Chickasaws	Permanent annuity in goods, $3,000 per annum	Vol. 1, page 619	Act of Congress February 25, 1799, and agreement of July 15, 1794.			$3,000 00	$60,000 00
Choctaws	Permanent annuities	Vol. 4, pages 99, 213, and 236.	2d article treaty November 16, 1805, $3,000; 13th article treaty October 18, 1820, $600; 2d article treaty January 20, 1825, $6,000.			9,600 00	192,000 00
Do	Provisions for smith, &c	Vol. 7, page 212	6th article treaty October 18, 1820, and 9th article treaty January 20, 1825, $920.			920 00	18,400 00
Do	Interest on $500,000; 5 per cent. for educational purposes.	Vol. 11, pages 613 and 614.	10th and 13th articles treaty January 22, 1855.			25,000 00	500,000 00
Confederated tribes and bands in middle Oregon.	Beneficial objects at the discretion of the President; five instalments of $9,000 each, of second series.	Vol. 12, page 964	2d article treaty June 25, 1855; two instalments of $6,000, five of $4,000, and five of $2,000 each, yet to be appropriated.		42,000 00		

*It is provided in the 3d article of the treaty that whenever the Chippewas agree as to the schools to be established, and blacksmiths, &c., to be employed for them, "and shall request the United States to expend, from year to year, the annual payments remaining unpaid, in the support of schools, blacksmiths and laborers, the same shall be expended by the United States for said purposes."

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D.—*Statement showing the liabilities of the United States to Indian tribes, &c.*—Continued.

Names of tribes.	Description of annuities, stipulations, &c.	References to laws; Statutes at Large.	Number of instalments yet unappropriated, explanations, &c.	Annual amount necessary to meet stipulations, indefinite as to time, now allowed, but liable to be discontinued.	Aggregate of future appropriations that will be required during a limited number of years to pay limited annuities incidentally necessary to effect the payment.	Amount of annual liabilities of a permanent character.	Amount held in trust by the United States on which five per cent. is annually paid; and amounts which, invested at five per cent., would produce permanent annuities.
Confederated tribes and bands in middle Oregon—Con.	For farmer, blacksmith, wagon and plough maker, fifteen years.	Vol 12, page 965...	4th article treaty June 25, 1855; seven instalments of $3,500 yet to be appropriated.	.....	$24, 500 00	.....	.....
Do.....	For physician, sawyer, miller, superintendent of farming, and school teacher, fifteen years.	....do	4th article treaty June 25, 1855; seven instalments of $5,600 yet to be appropriated.	.....	39, 200 00	.....	.....
Do.....	Salary of the head chief of the confederated band, twenty years.	....do	4th article treaty June 25, 1855; twelve instalments of $500 each yet to be appropriated.	.....	6, 000 00	.....	.....
Do.....	Purchase of teams, agricultural implements, seeds, &c., $3,500.	Treaty not yet published.	5th article treaty November 15, 1865; only one appropriation required.	.....	.....	.....	.....
Creeks	Permanent annuities in money.....	Vol. 7, pages 36, 62, and 287.	4th article treaty August 7, 1790, and 5th article treaty August 7, 1856, $1,500; 2d article treaty June 16, 1802, and 5th article treaty August 7, 1856, $3,000; 4th article treaty January 24, 1826, and 5th article treaty August 7, 1856, $20,000.	.....	.....	$24, 500 00	$490, 000 00
Do.....	Permanent annuity for blacksmiths' shops and tools, &c., of $1,110.	Vol. 7, page 287....	8th article treaty January 24, 1826	.....	.....	1, 100 00	22, 200 00
Do.....	Permanent annuity for wheelwright, of $600 ..	....do	8th article treaty January 24, 1826	.....	.....	600 00	12, 000 00
Do.....	For blacksmith, &c., $840; iron and steel for shop, $270; wagon maker, $600; assistance in agricultural operations, $2,000; education, $1,000; all during the pleasure of the President.	Vol. 7, pages 287 and 419.	8th article treaty January 24, 1826, 5th article treaty February 14, 1833, and 5th article treaty August 7, 1856.	$4, 710 00	.....	.....	.....
Do.....	For purposes of education, interest on $200,000 held in trust.	Vol. 11, pages 701 and 702.	6th article treaty August 7, 1856..	.....	10, 000 00	200, 000 00	.....
Do.....	Interest on $775,168 held in trust; 5 per cent. to be expended under direction of the Secretary of the Interior.	Pamphlet copy of laws, page 102; treaties.	3d article treaty June 14, 1866....	.....	38, 758 40	775, 168 00	.....

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Delawares	Life annuity to chief		Private act to supplementary treaty September 24, 1829, to treaty October 13, 1818.	100 00			
Do	Interest on $46,080	Vol. 7, page 327	Senate resolution Jan. 19, 1838; 5th article treaty May 6, 1856.			2,304 00	46,080 00
Dwamish and other allied tribes in Washington Territory.	For $150,000 under the direction of the President, in twenty instalments.	Vol. 12, page 928	6th article treaty January 22, 1855; twelve instalments yet to be appropriated.		90,000 00		
Do	Twenty instalments for an agricultural school and teacher, of $3,000.	Vol. 12, page 929	14th article treaty January 22, 1855; twelve instalments yet to be appropriated.		36,000 00		
Do	Twenty instalments for smith, capenter, shop, and tools, of $500.	do	14th article treaty January 22, 1855; twelve instalments yet to be appropriated.		6,000 00		
Do	Twenty instalments for blacksmith, carpenter, farmer, and physician, $4,600.	do	14th article treaty January 22, 1855; twelve instalments yet to be appropriated.		55,200 00		
Flathead and other confederated tribes.	Five instalments of second series on $120,000, for beneficial objects.	Vol. 12, page 976	4th article treaty July 16, 1855; one instalment of $5,000, five of $4,000, and five of $3,000 each, yet to be made.		40,000 00		
Do	Twenty instalments for support of an agricultural and industrial school, for furniture, books, stationery, &c., $300.	Vol. 12, page 977	5th article treaty July 16, 1855; twelve instalments yet to be appropriated.		36,000 00		
Do	Twenty instalments for employment of suitable instructors therefor, $1,800.	do	5th article treaty July 16, 1855; twelve instalments yet to be appropriated.		21,600 00		
Do	Twenty instalments for keeping in repair blacksmith's, carpenter's, wagon and plough maker's shops, and for tools, $500.	do	5th article treaty July 16, 1855; twelve instalments yet to be appropriated.		6,000 00		
Do	Twenty instalments for two farmers, two millers, one blacksmith, gunsmith, tinner, carpenter and joiner, wagon and plough maker, $7,400.	do	5th article treaty July 16, 1855; twelve instalments yet to be appropriated.		88,800 00		
Do	Twenty instalments for keeping in repair flouring and saw mill and supplying the necessary fixtures, $500.	do	5th article treaty July 16, 1855; twelve instalments yet to be appropriated.		6,000 00		
Do	Twenty instalments for keeping in repair hospitals and furnishing necessary medicines, $300.	do	5th article treaty July 16, 1855; twelve instalments yet to be appropriated.		3,600 00		
Do	Pay of physician, twenty years, $1,400 per year	do	5th article treaty July 16, 1855; twelve instalments yet to be appropriated.		16,800 00		
Do	Keeping in repair buildings of employés, twenty years, $300 per year.	do	5th article treaty July 16, 1855; twelve instalments yet to be appropriated.		3,600 00		
Do	$500 per annum, twenty years, for each of the head chiefs, $1,500.	do	5th article treaty July 16, 1855; twelve instalments yet to be appropriated.		18,000 00		
Do	For insurance and transportation of annuity goods and provisions.	do	5th article treaty July 16, 1855	11,921 41			
Iowas	Interest on $57,500, being the balance of $157,500	Vol. 10, page 1071	9th article treaty May 17, 1854			2,875 00	57,500 00

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D.—*Statement showing the liabilities of the United States to Indian tribes, &c.*—Continued.

Names of tribes.	Description of annuities, stipulations, &c.	Reference to laws; Statutes at Large.	Number of instalments yet unappropriated, explanations, &c.	Annual amount necessary to meet stipulations, indefinite as to time, now allowed, but liable to be discontinued.	Aggregate of future appropriations that will be required during a limited number of years to pay limited annuities incidentally necessary to effect the payment.	Amount of annual liabilities of a permanent character.	Amount held in trust by the United States on which five per cent. is annually paid; and amounts which, invested at five per cent., would produce permanent annuities.
Kansas	Interest on $200,000	Vol. 9, page 842	2d article treaty January 14, 1846			$10,000 00	$200,000 00
Kickapoos	Interest on $100,000	Vol. 10, page 1079	2d article treaty May 18, 1854			5,000 00	100,000 00
Do	Gradual payment on $200,000	do	2d article treaty May 18, 1854; $163,000 heretofore appropriated.		$37,000 00		
Klamaths and Modocs.	Five instalments of $8,000, to be applied under the direction of the President.	Treaty not yet published.	2d article treaty October 14, 1864; three instalments yet to be appropriated.		24,000 00		
Do	For keeping in repair saw-mill, flouring mill, and buildings for employés, manual labor school, and hospital, for twenty years, $1,000 per year.	do	4th article treaty October 14, 1864; nineteen instalments yet to be appropriated.		19,000 00		
Do	For purchase of tools and materials for saw and flouring mills, carpenter, blacksmith, wagon and plough makers' shops, and books and stationery for manual labor school, twenty instalments of $1,500 each.	do	4th article treaty October 14, 1864; eighteen instalments yet to be appropriated.		27,000 00		
Do	Pay of superintendent of farming, farmer, blacksmith, sawyer, carpenter, wagon and plough maker, fifteen instalments of $6,000.	do	5th article treaty October 14, 1864; thirteen instalments yet to be appropriated.		78,000 00		
Do	Pay of physician, miller, and two school teachers, twenty instalments of $3,600.	do	5th article treaty October 14, 1864; eighteen instalments yet to be appropriated.		64,800 00		
Makah tribes	For beneficial objects $30,000, under the direction of the President.	Vol. 12, page 940	5th article treaty January 31, 1855; two instalments of $1,500 each yet to be appropriated.		3,000 00		
Do	Twenty instalments for an agricultural and industrial school and teachers, $2,500 per year.	Vol. 12, page 941	11th article treaty January 31, 1855; twelve instalments yet to be appropriated.		30,000 00		
Do	Twenty instalments for smith, carpenter shops and tools, $500 per year.	do	11th article treaty January 31, 1855; twelve instalments yet to be appropriated.		6,000 00		

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Do	Twenty instalments for blacksmith, carpenter, farmer, and physician, $4,600 per year.	....do	11th article treaty January 31, 1855.		55,200 00		
Menomonees	Pay of miller for fifteen years, $600 per year	Vol. 10, page 1065	3d article treaty May 12, 1854; three instalments yet to be appropriated.		1,800 00		
Do	Fifteen equal instalments to pay $242,686 for cession of lands, estimated at $16,179 06 each.	....do	4th article treaty May 12, 1854, and Senate amendment thereto; thirteen instalments yet to be appropriated.		210,327 78		
Miamies of Kansas	Permanent provision for smith's shop, &c., and miller; $940 for the shop and $600 for the miller.	Vol. 7, pages 191 and 464, and vol. 10, page 1095.	5th article treaty Oct. 6, 1818; 5th article treaty Oct. 23, 1834; and 4th article treaty June 5, 1854.			1,540 00	30,800 00
Do	Twenty instalments upon $200,000	Vol. 10, page 1094	3d article treaty June 5, 1854; $150,000 of said sum payable in instalments of $7,500 each; twelve instalments yet to be appropriated.		90,000 00		
Do	Interest on $50,000, at five per cent	....do	3d article treaty June 5, 1854; Senate amendment.			2,500 00	50,000 00
Miamies of Indiana	Interest on $221,257 86, in trust	Vol. 10, page 1099	4th article treaty June 5, 1854			11,062 89	221,257 86
Miamies of Eel river	Permanent annuities	Vol. 7, pages 51, 91, 114, and 116.	4th article treaty Aug. 3, 1795; 3d article treaty Aug. 2, 1805; and 3d article treaty Sept. 30, 1809; aggregate.			1,100 00	22,000 00
Molels	For keeping in repair saw and flouring mill, and furnishing suitable persons to attend the same, for a period of ten years.	Vol. 12, page 981	2d article treaty Dec. 21, 1855; two instalments of $1,500 each yet to be appropriated.		3,000 00		
Do	For pay of teacher to manual labor school, and for subsistence of pupils and necessary supplies, during the pleasure of the President.	....do	2d article treaty Dec. 21, 1855	$3,000 00			
Do	For carpenter and joiner to aid in erecting buildings, making furniture, &c., estimated at $2,000 each year.	Vol. 12, page 982	2d article treaty Dec. 21, 1855; two instalments yet to be appropriated.		4,000 00		
Nisqually, Puyallup, and other tribes and bands of Indians.	For payment of $32,500, in graduated payments.	Vol. 10, page 1133	4th article treaty Dec. 26, 1854; $6,450 yet due.		6,450 00		
Do	Pay of instructor, smith, physician, carpenter, &c., twenty years, estimated at $6,700 per year.	Vol. 10, page 1134	4th article treaty Dec. 26, 1854; seven instalments yet to be appropriated.		46,900 00		
Nez Percés	Instalments of second series, at the discretion of the President.	Vol. 12, page 958	4th article treaty June 11, 1855; two of $8,000, five of $6,000, and five of $4,000 each yet to be appropriated.		66,000 00		
Do	For support of two schools, one of which to be an agricultural and industrial school; keeping in repair, and providing furniture, books, and stationery.	Vol. 19, page 959	5th article treaty June 11, 1855; twelve instalments of $500 each yet to be appropriated.		6,000 00		
Do	Twenty instalments for one superintendent of teaching and two teachers.	Vol. 12, page 959	5th article treaty June 11, 1855; twelve instalments of $3,200 each yet to be appropriated.		38,400 00		

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D.—*Statement showing the liabilities of the United States to Indian tribes, &c.*—Continued.

Names of tribes.	Description of annuities, stipulations, &c.	Reference to laws; Statutes at Large.	Number of instalments yet unappropriated, explanations, &c.	Annual amount necessary to meet stipulations, indefinite as to time, now allowed, but liable to be discontinued.	Aggregate of future appropriations that will be required during a limited number of years to pay limited annuities incidentally necessary to effect the payment.	Amount of annual liabilities of a permanent character.	Amount held in trust by the United States, on which five per cent. is annually paid; and amounts which, invested at five per cent., would produce permanent annuities.
Nez Percés—Cont'd.	Twenty instalments for one superintendent of farming and two farmers, two millers, two blacksmiths, one gunsmith, one carpenter, and one wagon and plough maker.	Vol. 12, page 959...	5th article treaty June 11, 1855; twelve instalments of $9,400 each yet to be appropriated.	.....	$112,800 00	.....	.....
Do.....	Twenty instalments for keeping in repair hospitals and furnishing necessary medicines, &c.	....do.....	5th article treaty June 11, 1855; twelve instalments of $300 each yet to be appropriated.	.....	3,600 00	.....	.....
Do.....	Twenty instalments for keeping in repair grist and saw mill and providing the necessary tools.	....do.....	5th article treaty June 11, 1855; twelve instalments of $500 each yet to be appropriated.	.....	6,000 00	.....	.....
Do.....	Twenty instalments for pay of physician.	....do.....	5th article treaty June 11, 1855; twelve instalments of $1,400 each yet to be appropriated.	.....	16,800 00	.....	.....
Do.....	Twenty instalments for keeping in repair the buildings for the various employés and for furniture.	....do.....	5th article treaty June 11, 1855; twelve instalments of $300 each yet to be appropriated.	.....	3,600 00	.....	.....
Do.....	Twenty instalments for salary of head chief...	....do.....	5th article treaty June 11, 1855; twelve instalments of $500 each yet to be appropriated.	.....	6,000 00	.....	.....
Do.....	Twenty instalments for keeping in repair the blacksmith, tinsmith, gunsmith, carpenter, and wagon and plough makers' shops, and for necessary tools.	....do.....	5th article treaty June 11, 1855; twelve instalments of $500 each yet to be appropriated.	.....	6,000 00	.....	.....
Do.....	Series of instalments to enable the Indians to remove and locate upon their reservation, and to be expended in ploughing land and fencing lots.	Treaty not published.	4th article treaty June 9, 1863; one instalment of $25,000 and one of $15,000 yet to be appropriated.*	.....	40,000 00	.....	.....
Do	Series of instalments for boarding and clothing children who attend school, providing school and boarding houses with furniture, purchase of wagons, teams, tools, &c., and for fencing lands for gardening purposes.	....do	4th article treaty June 9, 1863; thirteen instalments of $3,000 each and one of $2,000 yet to be appropriated.	.....	41,000 00	.....	.....

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Do	For salary of two subordinate chiefs, $500 each per year.	....do	5th article treaty June 9, 1863, and 5th article treaty June 11, 1863; twelve instalments of $1,000 each yet to be appropriated.		12,000 00	
Do	For keeping in repair blacksmiths' shops, and furnishing tools and materials, fifteen instalments of $500.	....do	5th article treaty June 9, 1863; fourteen instalments of $500 each yet to be appropriated.		7,000 00	
Do	Series of instalments for repairs of houses, mills, shops, &c., and providing necessary furniture, tools, and materials.	....do	5th article treaty June 9, 1863, eleven instalments of $2,000 and three of $1,000 each yet to be appropriated.		25,000 00	
Do	Salary of two matrons to take charge of the boarding schools, two assistant teachers, one farmer, one carpenter, and two millers, estimated at $7,600 per year.	....do	5th article treaty June 9, 1863, and 5th article treaty June 11, 1855; twelve instalments of $7,600 yet to be appropriated.		91,200 00	
Omahas	Series of instalments in money or otherwise	Vol. 10, page 1044	4th article treaty March 16, 1854; fifteen instalments of $20,000 and twelve of $10,000 each yet to be appropriated.		420,000 00	
Do	Ten instalments for pay of one engineer and assistant, $1,800; one miller and assistant, $1,200; farmer, $900; blacksmith and assistant, $1,200, per year.	Pamphlet copy of laws, (treaties,) page 14; vol. 10 page 1045.	3d article treaty March 4, 1865, and 8th article treaty March 16, 1854; eight instalments of $5,100 yet to be appropriated.		40,800 00	
Do	Ten instalments for keeping in repair grist and saw mill, and support of blacksmith shop and furnishing tools	....do	3d article treaty March 4, 1865, and 8th article treaty March 16, 1864; eight instalments of $600 each yet to be appropriated.		4,800 00	
Osages	Interest on $69,120, at five per cent	Vol. 7, page 242	Senate resolutions Jan. 19, 1838; 6th article treaty Jan. 2, 1835; for educational purposes.			3,456 00 69,120 00
Do	Interest on $300,000, at five per cent		1st article treaty Sept. 29, 1865; to be paid semi-annually, in money or such articles as Secretary of Interior may direct.			15,000 00 300,000 00
Do	For transportation of goods, provisions, &c		Same article of treaty as above	3,500 00		
Ottawas and Chippewas of Michigan.	Interest on $206,000, being the unpaid part of the principal sum of $306,000, at five per cent.	Vol. 11, page 623	3d article treaty July 31, 1855			10,300 00 206,000 00
Pawnees	Annuity in goods and such articles as may be necessary.	Vol. 11, page 729	2d article treaty Sept. 24, 1857			30,000 00
Do	Support of two manual labor schools	....do	3d article same treaty; annually, during pleasure of President.	10,000 00		
Do	Pay of two teachers	....do	3d article same treaty; annually, during pleasure of President.	1,200 00		
Do	Purchase of iron and steel and other necessaries for the shops.	....do	4th article same treaty	500 00		
Do	Pay of two blacksmiths	....do	4th article same treaty	1,200 00		
Do	Pay of two strikers or apprentices	....do	4th article same treaty	480 00		
Do	Pay of farmer	....do	4th article same treaty	600 00		

***Congress has made appropriations for two years towards the fulfilment of the provisions of the treaty with the Nez Perces of June 9, 1863, although the treaty has not gone into effect, the Indians persistently refusing to agree to the amendments of the Senate thereto. The Senate has been requested to recede from its amendments, so that the treaty may be proclaimed and made effective.**

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D.—*Statement showing the liabilities of the United States to Indian tribes, &c.*—Continued.

Names of tribes.	Description of annuities, stipulations, &c.	Reference to laws; Statutes at Large.	Number of instalments yet unappropriated, explanations, &c.	Annual amount necessary to meet stipulations, indefinite as to time, now allowed, but liable to be discontinued.	Aggregate of future appropriations that will be required during a limited number of years to pay limited annuities incidentally necessary to effect the payment.	Amount of annual liabilities of a permanent character.	Amount held in trust by the United States on which five per cent is annually paid; and amounts which, invested at five per cent., would produce permanent annuities.
Pawnees	Pay of miller	Vol. 11, page 729	4th article same treaty; one instalment unappropriated.		$600 00		
Do	Pay of engineer, ten instalments, at discretion of President.	do	4th article same treaty; one instalment unappropriated.		1,200 00		
Do	Pay of apprentices at mill	do	4th article same treaty; annual appropriation.	$500 00			
Do	For keeping mill in repair	do	4th article same treaty; annual appropriation.	300 00			
Poncas	Ten instalments of second series, to be paid to them or expended for their benefit.	Vol. 12, page 997	2d article treaty March 12, 1858; six instalments of $10,000 each unappropriated.		60,000 00		
Do	Ten instalments for manual labor school	Vol. 12, page 998	2d article same treaty; one instalment of $5,000 unappropriated.		*5,000 00		
Do	Ten instalments, during the pleasure of the President, for aid in agricultural and mechanical pursuits.	do	2d article same treaty; one instalment of $7,500 unappropriated.		7,500 00		
Do	Provision for compensation for spoliations		3d article treaty March 10, 1865; one item.†		15,080 00		
Pottawatomies	Life annuities to chiefs	Vol. 7, pages 379 and 433.	3d article treaty Oct. 20, 1832, $200; 3d article of treaty Sept. 26, 1837, $700.	900 00			
Do	Permanent annuities, in money	Vol. 7, pages 51, 114, 185, 317, 320, and 855.	4th article treaty 1795, $1,000; 3d article treaty 1809, $500; treaty of 1818, $2,500; treaty of 1828, $2,000; 2d article treaty of July, 1829, $16,000; 10th article treaty June, 1846, $300.			$22,300 00	$446,000 00
Do	Education, during pleasure of Congress	Vol. 7, page 296	3d article treaty Oct. 16, 1826; 2d article treaty Sept. 20, 1828; 4th article treaty Oct. 27, 1832, $5,000.	5,000 00			

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Do	Permanent provision for three smiths	Vol. 7, pages 318, 296, and 321.	2d article treaty Sept. 20, 1828; 3d article treaty Oct. 16, 1826; 2d article treaty July 29, 1829, $2,820.			2,820 00	
Do	Permanent provision for furnishing salt		2d art. treaty July 29, 1829, est'd	437 50			
Do	Interest on $643,000, at five per cent	Vol. 9, page 854	7th article treaty June 7, 1846			32,150 00	643,000 00
Pottawatomies of Huron	Permanent annuities	Vol. 7, page 106	2d article treaty Nov. 17, 1807			400 00	8,000 00
Quapaws	Provision for education, smith and smith's shop, during pleasure of the President.	Vol. 7, page 425	3d article treaty May 13, 1833; $1,000 a year for education, and $1,660 for smith, &c.	2,660 00			
Quinaielts and Quillehutes	For $25,000, being the fourth series, for beneficial objects, under direction of the President.	Vol. 12, page 972	4th article treaty July 1, 1855; two instalments of $1,300 each, unappropriated.		2,600 00		
Do	For support of school and pay of teachers for twenty years.	Vol. 12, page 973	10th article treaty July 1, 1855; twelve instalments of $2,500 each, unappropriated.		30,000 00		
Do	Twenty instalments for shops and tools	....do	Same article of treaty; twelve instalments of $5,000 each, unappropriated.		6,000 00		
Do	Pay of smith, carpenter, farmer, and physician, for twenty years.	....do	Same article of treaty; twelve instalments of $4,600 each, unappropriated.		55,200 00		
Rogue Rivers	Sixteen instalments in blankets, clothing, farming utensils, and stock.	Vol. 10, page 1019	3d article treaty Sept. 10, 1853; two instalments of $2,500 each, unappropriated.		5,000 00		
Sacs and Foxes of Mississippi	Permanent annuities	Vol. 7, page 85	3d article treaty Nov. 3, 1804			‡1,000 00	20,000 00
Do	Interest on $200,000, at 5 per cent	Vol. 7, page 541	2d article treaty Oct. 21, 1837			‡10,000 00	200,000 00
Do	Interest on $800,000, at 5 per cent	Vol. 7, page 596	2d article treaty Oct. 11, 1842			‡40,000 00	800,000 00
Sacs and Foxes of Missouri	Interest on $157,400	Vol. 10, page 543	2d article treaty Oct. 21, 1837			‡7,870 00	157,400 00
Seminoles	Interest on $500,000, at 5 per cent	Vol. 11, page 702	8th article treaty Aug. 7, 1856			25,000 00	500,000 00
Do	Interest on $70,000, at 5 per cent	Page 73 pamphlet edition laws, 1866.	3d article treaty March 21, 1866			3,500 00	70,000 00
Senecas	Permanent annuities	Vol. 7, pages 161 and 179.	4th article treaty Sept. 29, 1817, $500; 4th article treaty Sept. 17, 1817, $500.			1,000 00	20,000 00
Do	For smiths and shops during the pleasure of the President.	Vol. 7, page 349	4th article treaty Feb. 28, 1831, say $1,660.	1,660 00			
Senecas of New York	Permanent annuities	Vol. 4, page 442	Act of Congress Feb. 19, 1841			6,000 00	120,000 00
Do	Interest on $75,000, at 5 per cent	Vol. 9, page 35	Act of Congress June 27, 1846			3,750 00	75,000 00
Do	Interest on $43,050, at 5 per cent	....do	Act of Congress June 27, 1846			2,152 50	43,050 00
Senecas & Shawnees	Permanent annuity	Vol. 7, page 119	4th article treaty Sept. 17, 1818			1,000 00	20,000 00
Do	Provision for smiths and shops during the pleasure of the President.	Vol. 7, page 352	4th article treaty July 20, 1831	1,060 00			
Shawnees	Interest on $40,000	Vol. 10, page 1056	3d article treaty May 10, 1854			2,000 00	40,000 00
Do	Permanent annuities for education	Vol. 7, pages 51 and 160; and vol. 10, page 1055.	4th article treaty Aug. 3, 1795; 3d article treaty May 10, 1854; and 4th art. treaty Sept. 29, 1817.			3,000 00	60,000 00

* There remains on hand $17,500, applicable to this purpose, of former appropriations. † Treaty ratified by the Senate at extra session of 1867.
‡ The government is also responsible for the amount received from time to time as the proceeds of sale of trust lands.

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D.—*Statement showing the liabilities of the United States to Indian tribes, &c.*—Continued.

Names of tribes.	Description of annuities, stipulations, &c.	Reference to laws; Statutes at Large.	Number of instalments yet unappropriated; explanations, &c.	Annual amount necessary to meet stipulations, indefinite as to time, now allowed, but liable to be discontinued.	Aggregate of future appropriations that will be required during a limited number of years to pay limited annuities incidentally necessary to effect the payment.	Amount of annual liabilities of a permanent character.	Amount held in trust by the United States on which five per cent. is annually paid; and amounts which, invested at five per cent., would produce permanent annuities.
Shoshones—Goship bands.	Twenty instalments of $1,000 each, expended in goods.	Vol. 681, page 13...	7th article treaty Oct. 7, 1863; sixteen instalments unappropriated.	.....	$16,000 00	.....	.....
Shoshones—Northwestern bands.	Twenty instalments of $5,000 each, expended in goods.	Vol. 663, page 13...	3d article treaty July 30, 1863; sixteen instalments unappropriated.	.....	80,000 00	.....	.....
Shoshones—Eastern bands.	Twenty instalments of $10,000 each, expended in goods.	....do	5th article treaty July 2, 1863; sixteen instalments unappropriated.*	.....	160,000 00	.....	.....
Shoshones—Western bands.	Twenty instalments of $5,000 each, expended in goods.	....do.....	7th article treaty Oct. 1, 1863; sixteen instalments unappropriated.	.....	80,000 00	.....	.....
Sioux — Blackfeet band.	Twenty instalments of $7,000 each, under the direction of the Secretary of the Interior.	Treaties in pamphlet edition of laws of 1866.	4th article treaty Oct. 19, 1865; eighteen instalments unappropriated.	.....	126,000 00	.....	.....
Lower Brulés....	Twenty instalments of $6,000 each, under the direction of the Secretary of the Interior.	....do.....	4th article treaty Oct. 14, 1865; eighteen instalments unappropriated.	.....	108,000 00	.....	.....
Minneconjoux ...	Twenty instalments of $10,000 each, under the direction of the Secretary of the Interior.	....do.....	4th article treaty Oct. 10, 1865; eighteen instalments unappropriated.	.....	180,000 00	.....	.....
Unepapas	Twenty instalments of $9,000 each, under the direction of the Secretary of the Interior.	....do.....	4th article treaty Oct. 20, 1865; eighteen instalments unappropriated.	.....	162,000 00	.....	.....
Ogalallas.....	Twenty instalments of $10,000 each, under the direction of the Secretary of the Interior.	....do.....	4th article treaty Oct. 28, 1865; eighteen instalments unappropriated.	.....	180,000 00	.....	.....
Sans Arcs.....	Twenty instalments of $8,400 each, under the direction of the Secretary of the Interior.	....do.....	4th article treaty Oct. 20, 1865; eighteen instalments unappropriated.	.....	151,200 00	.....	.....
Two Kettles.....	Twenty instalments of $6,000 each, under the direction of the Secretary of the Interior.	....do.....	4th article treaty Oct. 19, 1865; eighteen instalments unappropriated.	.....	108,000 00	.....	.....
Upper Yanctonais.	Twenty instalments of $10,000 each, under the direction of the Secretary of the Interior.	....do	4th article treaty Oct. 28, 1865; eighteen instalments unappropriated.	.....	180,000 00	.....	.....
Yanctonais	Twenty instalments of $10,000 each, under the direction of the Secretary of the Interior.	....do.....	4th article treaty Oct. 20, 1865; eighteen instalments unappropriated.	.....	180,000 00	.....	.....

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Six Nations of New York.	Permanent annuities in clothing, &c	Vol. 7, page 46	6th article treaty Nov. 11, 1794			$4,500 00	$90,000 00
S'Klallams, &c	Series of instalments for beneficial purposes	Vol. 12, page 934	5th article treaty Jan. 26, 1855; two instalments of $3,000 each, five of $2,400 each, and five of $1,600 each, unappropriated.		$26,000 00		
Do	Twenty instalments for school and teachers	Vol. 12, page 935	11th article treaty Jan. 26, 1855; 12 instalments unappropriated.		30,000 00		
Do	Twenty years' pay for smith, carpenter, &c	do	11th article treaty Jan. 26, 1855; 12 instalments unappropriated.		55,200 00		
Tabequache Utes	Ten instalments of $20,000 each	Vol. 13, page 673	8th article treaty Oct. 7, 1863; goods, $10,000; provisions, $10,000; six instalments unappropriated.		120,000 00		
Do	Five instalments of $10,000 each, agriculture, stock, &c.	do	10th article same treaty amended, one instalment unappropriated.		10,000 00		
Do	Purchase of iron, &c., for smith shop, and pay of smith and assistant.	do	Same article of treaty; iron, steel, &c., $220; pay $1,100.	$1,320 00			
Do	Transportation of goods	do		15,000 00			
Umpquas and Calapoolas of Umpqua valley, Oregon.	Series of instalments for beneficial objects, under direction of the President.	Vol. 10, page 1126	3d article treaty Nov. 29, 1854; two instalments of $1,700 each, & five of $1,000 each, unappropriated.		8,400 00		
Do	Support of teachers for twenty years	Vol. 10, page 1127	6th article same treaty; seven instalments unappropriated.		10,150 00		
Do	Support of physician for fifteen years	do	Same article of treaty; two instalments unappropriated.		4,000 00		
Umpquas, Cow Creek band.	Twenty instalments of $550 each, provisions and clothing.	Vol. 10, page 1028	3d article treaty Sept. 19, 1853		3,300 00		
Walla-Wallas, Cayuses & Umatillas.	Series of instalments under direction of the President, for beneficial purposes.	Vol. 12, page 946	2d article treaty June 9, 1855; two instalments of $6,000 each, five of $4,000, and five of $2,000.		42,000 00		
Do	Twenty instalments for pay of 2 millers, 1 farmer, 1 superintendent of farming, 2 teachers, 1 smith, 1 wagon maker, and 1 carpenter.	Vol. 12, page 947	4th article same treaty; twelve instalments of $11,200 each yet unappropriated.		134,400 00		
Do	Twenty instalments for mill fixtures, tools, medicines, books, &c.	do	4th article same treaty; twelve instalments of $3,000 each, unappriated.		36,000 00		
Do	Twenty instalments of $1,500 for the head chiefs, ($500 each.)	do	5th article same treaty; twelve instalments unappropriated.		18,000 00		
Do	Twenty instalments of $100 for son of Pio-pio-mox-mox.	do	5th article same treaty; twelve instalments unappropriated.		1,200 00		
Winnebagoes	Interest on $1,000,000, at 5 per cent	Vol. 7, page 546, vol. 12, page 628.	4th article treaty Nov. 1, 1837, and Senate resolution July 17, 1862.			50,000 00	1,000,000 00
Do	Thirty instalments of interest on $85,000	Vol. 9, page 879	4th article treaty Oct. 13, 1846; nine instalments of $4,250 each unappropriated.		42,500 00		
Woll-pah-pe tribe of Snakes.	Instalments to be expended for benefit of the Indians.	Pamphlet edition laws of 1866, page 22 of treaties.	7th article treaty of Aug. 12, 1865; 4 instalments of $2,000 each, and 10 of $1,200 each unappropriated.		20,000 00		

* This and the following treaty not published, the Indians not having been reached to get their assent to a certain amendment. They will give their assent without doubt. Meantime Congress makes the appropriation.

† This amount estimated as cost of delivery to Indians, with insurance.

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D.—*Statement showing the liabilities of the United States to Indian tribes, &c.*—Continued.

Names of tribes.	Description of annuities, stipulations, &c.	Reference to laws; Statutes at Large.	Number of instalments yet unappropriated, explanations, &c.	Annual amount necessary to meet stipulations, indefinite as to time, now allowed, but liable to be discontinued.	Aggregate of future appropriations that will be required during a limited number of years to pay limited annuities incidentally necessary to effect the payment.	Amount of annual liabilities of a permanent character.	Amount held in trust by the United States on which five per cent. is annually paid; and amounts which, invested at five per cent., would produce permanent annuities.
Yakimas	Instalments for beneficial purposes, under direction of the President.	Vol. 12, page 953	4th article treaty June 9, 1855; two instalments of $8,000 each, five of $6,000, and five of $4,000, unappropriated.		66,000 00		
Do.	Support of two schools, repairs, books, and stationery.	....do	Same article of treaty; twelve instalments of $500 each unappropriated.		6,000 00		
Do.	Twenty instalments for superintendent of schools and two teachers.	....do	5th article of same treaty; twelve instalments unappropriated.		38,400 00		
Do.	For superintendent of farming, two farmers, two millers, two blacksmiths, one farrier, gunsmith, carpenter and wagon-maker, for twenty years.	....do	Same article of treaty; twelve instalments of $9,400 each unappropriated.		112,800 00		
Do.	Twenty instalments for repairs of mill and tools	....do	Same article of treaty; twelve instalments of $500 each unappropriated.		6,000 00		
Do.	Twenty instalments for hospital and medicines	....do	Same article of treaty; twelve instalments of $300 each unappropriated.		3,600 00		
Do.	Twenty instalments for pay of physician	....do	Same article of treaty; twelve instalments of $1,400 each unappropriated.		16,800 00		
Do.	Twenty instalments for repairs of buildings for employés.	....do	Same article of treaty; 12 instalm'ts of $300 each unappropriated.		3,600 00		
Do.	Twenty instalments for salary of head chief	... do	Same article of treaty; 12 instalm'ts of $500 each unappropriated.		6,000 00		
Do.	Twenty instalments for repairs of shops and materials.	....do	Same article of treaty; 12 instalm'ts of $500 each unappropriated.		6,000 00		
Yancton Sioux	Ten instalments of $65,000 each, to be paid to them or expended for their benefit.	Vol. 11, page 744	4th article treaty April 19, 1858; one instalment unappropriated.		65,000 00		

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MESSAGE

OF THE

PRESIDENT OF THE UNITED STATES,

COMMUNICATING,

In compliance with a resolution of the Senate of the 10th instant, information relative to prisoners of war taken by belligerents in the Mexican republic.

APRIL 15, 1867.—Read, ordered to lie on the table, and be printed.

To the Senate of the United States:

I transmit to the Senate, in answer to their resolution of the 10th instant calling for information relative to prisoners of war taken by belligerents in the Mexican republic, a report from the Secretary of State, with accompanying papers.

ANDREW JOHNSON.

WASHINGTON, *April* 12, 1867.

DEPARTMENT OF STATE,
Washington, April 12, 1867.

The Secretary of State, to whom was referred the resolution of the Senate of the 10th instant requesting the President to communicate, "if in his opinion not incompatible with the public interest, a copy of any recent correspondence which may have taken place upon the subject of prisoners of war taken by belligerents in the Mexican republic," has the honor to lay before the President the papers specified in the accompanying list.

WILLIAM H. SEWARD.

The PRESIDENT.

List of papers.

Count Wydenbruck to Mr. Seward.....April 5, 1867
Mr. Hotze to Count Wydenbruck.....April 4, 1867.
Count Wydenbruck to Mr. Seward.....April 6, 1867.
Mr. Seward to Mr. Campbell.....April 6, 1867.
Mr. Campbell to Mr. Seward.....April 6, 1867.
Mr. Seward to Count Wydenbruck.....April 6, 1867.
Count Wydenbruck to Mr. Seward.....April 6, 1867.
Mr. Campbell to Mr. Seward.....April 9, 1867.

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Count Wydenbruck to Mr. Seward.

Mr. SECRETARY OF STATE: I have just received a telegraphic despatch from my court, on the subject of which I should be happy to speak with you. May I ask you to fix the hour when I can have the honor of seeing you to-morrow?

I remain, Mr. Secretary, with the highest consideration, your obedient servant,

WYDENBRUCK.

WASHINGTON, *April* 5, 1867.

Mr. Hotze to Count Wydenbruck.

[Translation.]

CINCINNATI, OHIO, RACE STREET, No. 166, *April* 4, 1867.

EXCELLENCY: In order to legalize my person, I take the liberty of enclosing a letter of introduction to you which Baron Lago (Austrian chargé d'affaires) had the goodness to give me.

I was formerly captain in the Austrian general quartermaster's staff; then major and lieutenant colonel in the Mexican corps of Austrian volunteers. In consequence of my refusal, on the dissolution of this corps, to accept the position of chief of staff, by General Marquez, I drew on myself the displeasure of the Emperor Maximilian; have made application to re-enter the Austrian army, and intend to spend one year with my brother, who lives here.

The wish to serve the Emperor Maximilian, as far as it lies in my power, induces me to address this letter to you. The position of this prince is extremely critical, and it is probable that he will fall into the hands of the republicans. The question now is, in this case, to assure his fate, or, to speak plainer, his life —to spare the world a bloody drama, and the imperial family in Vienna a terrible grief. I am not less anxious for the fate of the Austrian legation in Mexico, the members of which are my personal friends. I know Mexico and the Mexicans.

If I take the liberty of drawing your attention to this subject, it is on account of the interest which it must have for you, and because it has nothing to do with *Mexican affairs*, with which the Austrian government has wisely had no connection.

Your influence would perhaps succeed in inducing the Hon. W. H. Seward to declare that the person of the prince must be respected; and if not officially, at least, through his influence over Juarez, to work in this direction. I offer myself to bring Secretary Seward's despatch without delay, and by the shortest route, to Juarez. I guarantee the secrecy of the contents.

During a year I was commander of the province of Oajaca, the birth-place of the President, and have left, as I hope, a favorable character. I stood in friendly relations to several of the President's family.

Perhaps it will still succeed to do something for the unfortunate prince before it is too late.

It is possible, and my most ardent wish, that something has already been done, and probably better than my proposal; if, however, no step has yet been taken, I leave my proposal to your excellency's enlightened judgment.

Should your excellency wish my presence in Washington, I will come at once. &c., &c, &c.

FREDERICK HOTZE.

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Count Wydenbruck to Mr. Seward.

[Pro memoriâ.]

WASHINGTON, *April* 6, 1867.

The Emperor of Austria, my gracious sovereign, has been informed that his brother is surrounded in Queretaro by the liberals. The fate of the prisoners after the battle of Zacatecas makes the Emperor anxious for his brother's safety, should he fall into the hands of the liberals. I received yesterday a telegram from my court, instructing me to speak on the subject with Mr. Secretary of State, and to see if you would not be disposed to use your influence with Juarez, to urge him to respect, in such an eventuality, the person of my Emperor's brother. Of course, such a friendly intervention would also benefit the other eventual prisoners, particularly the foreigners. We hesitate the less to make this application to you, Mr. Secretary, not only because we have confidence in the friendship of the American government, but because this government seems to have a right to demand from Juarez to respect prisoners of war, as it is in great measure to the moral support of the American government that the liberal party in Mexico owes his present successes.

WYDENBRUCK.

Mr. Seward to Mr. Campbell.

[By military telegraph.]

DEPARTMENT OF STATE,
Washington, April 6, 1867.

The capture of the Prince Maximilian in Queretaro by the republican armies of Mexico seems probable. The reported severity practiced upon the prisoners taken at Zacatecas excites apprehensions that similar severity may be practiced in the case of the prince and his alien troops. Such severities would be injurious to the national cause of Mexico, and to the republican system throughout the world.

You will communicate to President Juarez, promptly and by effectual means, the desire of this government that, in case of capture, the prince and his supporters may receive the humane treatment accorded by civilized nations to prisoners of war.

The expense of making this communication to President Juarez will be defrayed by this department.

WILLIAM H. SEWARD.

L. D. CAMPBELL,
United States Minister to Mexico,
St. Charles Hotel, New Orleans, La.

Mr. Campbell to Mr. Seward.

[Telegram.]

NEW ORLEANS, *April* 6, 1867.

SIR: Your despatch by telegraph received. Presuming that the department expects me to make the communication to President Juarez by special bearer of despatches, I will forthwith adopt measures to send one to Queretaro, via Tampico, unless otherwise instructed.

LEWIS D. CAMPBELL.

Hon. WILLIAM H. SEWARD,
Secretary of State.

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Mr. Seward to Count Wydenbruck.

DEPARTMENT OF STATE,
Washington, April 6, 1867.

MY DEAR COUNT WYDENBRUCK: With the President's approval I have this morning transmitted by telegraph a despatch to Mr. Campbell, a copy of which I place in your hands. I have also communicated to Mr. Romero, the Mexican minister plenipotentiary here, the sentiments of this government in regard to the exigency apprehended in Mexico. He gives me the assurance that he will lose no time in communicating the same to the government of Mexico.

I am, my dear Count Wydenbruck, very faithfully yours,

WILLIAM H. SEWARD.

Count WYDENBRUCK, *&c., &c., &c., Washington, D. C.*

Count Wydenbruck to Mr. Seward.

Mr. SECRETARY OF STATE: In returning you the telegram from New Orleans I can but renew the expression of my warmest thanks for the extreme kindness and promptness with which you have acted in this affair.

The knowledge that your despatch will be sent at once to the proper quarter relieves me from very great anxiety.

I have the honor to remain, Mr. Secretary, with the highest consideration, your obedient servant,

WYDENBRUCK.

APRIL 6.

P. S.—Mr. Campbell's courier having so great a start I think it superfluous to send Mr. Hotze. I shall, therefore, return next Monday to the department the passport you were so kind as to furnish me for him.

Mr. Campbell to Mr. Seward.

[Telegram via W. U. telegraph. Received Department of State 9.25 a. m., April 9, 1867.]

NEW ORLEANS, *April* 8, 1867.

I started messenger for San Luis Potosi with despatches this a. m. to Galveston by rail and steamer, thence to Tampico by fast despatch steamer Black bird. I have sent you full despatch by mail.

LEWIS D. CAMPBELL.

Hon. WILLIAM H. SEWARD,
Secretary of State.

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MESSAGE

OF THE

PRESIDENT OF THE UNITED STATES,

COMMUNICATING,

In compliance with a resolution of the Senate of January 28, 1867, information in relation to the absence of territorial officers from their post of duty.

APRIL 15, 1867.—Read, and ordered to lie on the table and be printed.

To the Senate of the United States:

In compliance with a resolution of the Senate of the 28th of January last, requesting certain information in regard to governors, secretaries, and judges of Territories, I transmit herewith reports from the Secretary of State, the Secretary of the Interior, and the Attorney General.

ANDREW JOHNSON.

WASHINGTON, *April* 13, 1867.

DEPARTMENT OF STATE,
Washington, February 4, 1867.

The Secretary of State, to whom was referred a copy of the resolution of the Senate of the United States, passed January 28, 1867, in the following words: "*Resolved*, That the President be requested, at his earliest convenience, to inform the Senate how often the governors, secretaries, and judges of the several Territories have been absent from their post of duty in the Territories since their appointments; what part of their time, since the date of their commissions, has been spent in such absence from the Territories; whether their absence has been previously authorized by leave granted in each instance; what was the public necessity for such absence in each case, and for their presence at the national capital, if any of them have been there, or are there at this time; and also whether any part, and, if so, how much and what part, of the expenses of their several trips to the seat of government have been charged to the government"—has the honor to report that the table herewith submitted contains all the information on the subject inquired of in the resolution which is in the possession of the Department of State. The department has no information in regard to the absence of territorial judges. In respect to governors and secretaries, the department has no information, other than that given in the table, of what periods have been spent in Washington during their absence from the Territories. The leaves of absence mentioned in the table were in each instance previously granted, except in the last case of Alexander Cummings, governor of Colorado Territory, which leave was applied for from Denver and granted after his arrival here. The public necessity for such absences, so far as is known to the department, appears in the table. No part of the expenses on the trips of the governors and secretaries has been charged to the government.

Respectfully submitted: WILLIAM H. SEWARD.

The PRESIDENT.

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Leaves of absence granted territorial officers from the dates of their appointments.

Office.	Date of commission.	Date of leave.	Expiration of leave.	Remarks.
NEBRASKA.				
Alvin Saunders, governor	March 27, 1861	July 24, 1861	Sept. 1, 1861	For raising three years' volunteers.
		Aug. 25, 1862	Sept. 27, 1862	Was appointed a commissioner for building the Union Pacific railroad. Granted leave to attend meeting early in September.
		Feb. 17, 1863	April 1, 1863	Business with War Department at Washington.
		Oct. 13, 1863	Nov. 12, 1863	To attend to military affairs of the Territory.
		Feb. 17, 1863	April 1, 1863	Military business of the Territory at Washington.
		Jan. 18, 1864	Feb. 17, 1864	For the purpose of having an operation performed on his ankle, at Chicago.
		Sept. 13, 1864	Sept. 23, 1864	To visit a dear sick friend.
		July 17, 1866	Aug. 16, 1866	On private business.
		Dec. 10, 1866	Jan. 9, 1867	Settlement of military claims at Washington.
		Jan. 8, 1867	Feb. 17, 1867	Extension of above.
A. Y. Paddock, secretary	July 16, 1861	Sept. 30, 1861	Nov. 29, 1861	Private business.
		Feb. 15, 1862	June 15, 1862	Did not take but two weeks.
		May 28, 1864	June 28, 1864	For advising with the Comptroller of the Treasury respecting his territorial duties for disbursements of the approaching constitutional convention.
		March 12, 1866	April 13, 1866	To see several officers of the national government at Washington as to the performance of his official duties.
DAKOTA.				
Andrew J. Faulke, governor	August 4, 1866	None	None	None.
Solomon L. Sprink, secretary	Jan. 10, 1866	Sept. 24, 1866	Dec. 24, 1866	Asks leave to remove his family from Pennsylvania.
		April 18, 1866	June 11, 1866	To transact business of an important character.
NEW MEXICO.				
Robert B. Mitchell, governor	July 16, 1866	Dec. 15, 1866	Jan. 26, 1867	Business with the Interior Department on territorial matters.
George P. Estes, secretary	April 10, 1866	None	None	None.
WASHINGTON.				
George E. Cole, governor	Nov. 21, 1866	None	None	None.
Elwood Evans, secretary	Feb. 18, 1863	April 9, 1866	July 9, 1866	Asks leave on account of sickness and death in his family.
		June 19, 1866	Sept. 1, 1866	Business with Treasury Department.
UTAH.				
Charles Durkee, governor	Dec. 21, 1865	None	None	None.
Amos Reed, secretary	Feb. 2, 1864	May 12, 1865		Territorial business.

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COLORADO.				
Alexander Cummings, governor..	Jan. 26, 1866	April 24, 1866	.....	To go after his family east.
		July 21, 1866	Aug. 1, 1866	Asks to have leave extended to August 1, as stated in our personal interview this morning.
		Dec. 1, 1866	Feb. 10, 1867	Leave asked on Indian affairs.
James R. Hood, secretary.....	Sept. 2, 1866	None.....	None.....	None.
ARIZONA.				
Richard C. McCormick, governor.	April 10, 1866	None.....	None.....	None.
James P. T. Carter, secretary....	April 10, 1866	None.....	None.....	None.
IDAHO.				
David W. Ballard, governor.....	April 10, 1866	None.....	None.....	None.
S. R. Howlett, secretary.....	July 26, 1866	None.....	None.....	None.
MONTANA.				
Green Clay Smith, governor.....	July 13, 1866	None.....	None.....	None.
Thomas F. Meagher, secretary..	Jan. 26, 1866	None.....	None.....	None.

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DEPARTMENT OF THE INTERIOR,
Washington, D. C., January 31, 1867.

SIR: I have the honor to acknowledge the receipt, by your reference, of the resolution adopted by the Senate on the 28th instant, requesting the President, "at his earliest convenience, to inform the Senate how often the governors, secretaries, and judges of the several Territories have been absent from their posts of duty in the Territories since their appointments; what part of their time since the date of their commissions has been spent in such absence from the Territories; whether their absence has been previously authorized by leave granted in each instance; what was the public necessity for such absence in each case, and for their presence at the national capital, if any of them have been there, or are there at this time; and also whether any part, and if so, how much and what part of the expenses of their several trips to the seat of government have been charged to the government."

The records of this department do not furnish any information on the subject. Applications, by officers of the grades mentioned in the resolution, for leave of absence, are not made to or granted by this department.

I am, sir, with great respect, your obedient servant,

O. H. BROWNING, *Secretary.*

The PRESIDENT.

ATTORNEY GENERAL'S OFFICE,
Washington, February 5, 1867.

SIR: In reply to the resolution of the Senate, adopted January 28, 1867, of which the enclosed is a copy, I have the honor to submit herewith a statement of all the leaves of absence granted through this office to territorial judges since the date of their appointments.

In explanation of this report, I have to say, that all the absences mentioned therein were in accordance with leaves previously granted on assurances satisfactory to the Attorney General that the public interest would suffer no damage.

Private business was the only reason urged, and in no case has any portion of the expense of their trips been borne by the government.

This office has no information that business at the national capital was, in a single instance, the motive for the leave requested.

I have the honor to be, sir, with great respect,

HENRY STANBERY,
Attorney General.

The PRESIDENT.

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Leaves of absence granted territorial judges from the dates of their appointments.

Names.	Office.	Territory.	Confirmed.	Leave of absence.		Months.	Days.	Remarks.
				From—	To—			
Hon. J. E. Wycke	Associate justice	Washington	Jan. 2, 1866	July 1, 1865	Jan. 1, 1866	6	.....	Private business.
Hon. E. S. Dundy	.....do.....	Nebraska	Jan. 20, 1864	Feb. 10, 1865	March 10, 1865	1	.....	Do.
Hon. John Titus	Chief justice	Utah	Jan. 20, 1864	Nov. 15, 1866	May 1, 1866	5	15	Do.
Hon. H. S. Hosmer	.....do.....	Montana	June 30, 1864	Sept. 21, 1865	April 15, 1866	7	.....	Do.
Hon. S. P. Williston	Associate justice	.....do.....	June 22, 1864	April 2, 1866	May 1, 1866	.....	30	Do.
Hon. Thomas J. Drake	.....do.....	Utah	Feb. 6, 1866	June 1, 1866	Oct. 16, 1866	3	15	Do.
Hon. J. P. Slough	Chief justice	New Mexico	Jan. 26, 1866	May 1, 1866	July 1, 1866	2	.....	Do.
Do	.....do	.....do.....	Jan. 26, 1866	May 1, 1867	Aug. 1, 1867	3	.....	Do.
Hon. S. A. Hubbell	Associate justice	.....do.....	Aug. 1, 1864	June 15, 1866	Aug. 1, 1866	1	15	Do.
Hon. William Kellogg	Chief justice	Nebraska	Jan. 15, 1866	July 12, 1866	Aug. 12, 1866	1	.....	Do.
Hon. J. P. Allyn	Associate justice	Arizona	March 11, 1863	Sept. 1, 1866	Jan. 1, 1867	4	.....	Do.
Do	.....do.....	.....do.....	March 11, 1863	Jan. 1, 1867	April 1, 1867	3	.....	Do.
Hon. C. P. Darwin	.....do.....	Washington	Jan. 25, 1866	Nov. 1, 1866	March 4, 1867	4	3	Do.
Hon. L. E. Munson	.....do.....	Montana	March 11, 1865	Oct. 1, 1666	Jan. 1, 1867	3	.....	Do.
Hon. W. F. Lockwood	.....do.....	Nebraska	Feb. 15, 1866	Nov. 1, 1866	Feb. 1, 1867	3	.....	Do.
Hon. Moses Hallett	Chief justice	Colorado	April 16, 1866	Jan. 1, 1867	May 1, 1867	4	.....	Do.
Hon. J. P. Kidder	Associate justice	Dakota	Feb. 23, 1865	Jan. 20, 1867	Feb. 20, 1867	1	.....	Do.

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REPORT

OF THE

SECRETARY OF THE TREASURY,

COMMUNICATING,

In compliance with a resolution of the Senate of the 12th instant, information in relation to the employment of an attorney to represent that department in the Court of Claims in certain cases pending in said court.

APRIL 15, 1867.—Read, referred to the Committee on the Judiciary, and ordered to be printed.

TREASURY DEPARTMENT, *April* 13, 1867.

SIR: I have the honor to acknowledge the receipt of a resolution adopted in the Senate on the 12th instant, in the following words:

"*Resolved*, That the Secretary of the Treasury be directed to inform the Senate whether he, or any one by him authorized, has employed an attorney or solicitor to represent that department before the Court of Claims in certain cases pending in said court; if yea, what counsel or solicitor has been thus employed, and in what cases, what fee or fees has been or will be paid him for said services, and out of what fund, and under what law or authority, he has been thus employed."

In response thereto I have the honor to state that, after carefully considering the subject in all its aspects, it has seemed to me that in the trial of a large and important class of cases soon to be disposed of in the Court of Claims, the public interests imperatively demand that some assistance should be rendered to the solicitors representing the government therein; and I have thought it my duty, as the head of an executive department directly affected by the result of such suits, to afford such aid in the premises as I properly could.

The cases to which I refer are those relating to property captured by the Union forces during the late rebellion, the proceeds of which—millions of dollars in amount—are now sought to be obtained through the Court of Claims. Many of the claims of this character are for large sums of money, and are being prosecuted with extraordinary vigor by an array of counsel combining talent, industry, and resources not often seen together, and who are generally incited to extra exertion by fees unusually large in amount, involving often a share of the amounts that in the event of success will be recovered by their clients. Considering the very large number of cases of this class, and the little time consequently allowed to the three solicitors of the court for the preparation of proper defences, it is unreasonable to expect them—able, vigilant, and faithful as they are acknowledged to be—to meet satisfactorily and successfully in all instances the influences and talent arrayed against them.

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In view of these facts, and considering the large sums of money involved, as well as the important and far-reaching principles likely to be established in the disposition of some of the cases first to be decided, I have entertained the idea of employing associate counsel to aid the solicitors in preparing and arguing some of the cases which will probably be determined at an early day. The general or implied authority for this proceeding is believed to exist in the first section of the act of Congress approved February 26, 1853. If it is not therein contained, it is my opinion that the provisions of the acts in relation to captured and abandoned property, approved respectively March 12, 1863, and July 2, 1864, justify the employment by this department of counsel to protect the public interests relative to such property, the expense thereof to be defrayed from the proceeds of the property received and collected under said acts.

Acting under this belief, I have informally asked the co-operation in this respect of Hon. Edgar Cowan, a gentleman of admitted ability, learning, and resources as an advocate and jurist, and requested him to consult with the solicitors of the Court of Claims as to the propriety and extent of the assistance so proposed to be rendered, and, generally, as to the best course to be pursued in the premises for the protection of the public interests, with the view of finally adopting such plan of proceeding as might be recommended or thought most expedient after such consultation; but as yet no definite arrangement has been made with him, no money has been paid to him, nor to any other person on this account, none has been agreed or promised to be paid, and no rate of compensation for such service as he might render has been fixed upon or spoken of.

In this contemplated proceeding I have been actuated solely by a sense of duty, and by what I conceived to be sound public policy; and I concluded to employ Mr. Cowan because I knew of no man so able who is unconnected with any proceedings against the government, and who would be likely to be so reasonable in his charges for professional service.

If, in the course I had thus proposed to pursue in the premises, I have, in the opinion of the Senate, acted without authority of law, or injudiciously in any respect, I shall be glad to be so advised.

With great respect, your obedient servant,

HUGH McCULLOCH,
Secretary of the Treasury.

Hon. B. F. WADE,
President of the Senate.

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MESSAGE

OF THE

PRESIDENT OF THE UNITED STATES,

COMMUNICATING

A report of the Secretary of State, in answer to a resolution of the Senate of the 13th instant, in relation to the absence of Governor Alexander Cumming from the Territory of Colorado since his appointment as governor.

APRIL 17, 1867.—Read, referred to the Committee on Territories, and ordered to be printed.

To the Senate of the United States:

I transmit to the Senate, in answer to their resolution of the 13th instant, a report from the Secretary of State.

ANDREW JOHNSON.

WASHINGTON, *April* 15, 1867.

DEPARTMENT OF STATE,
Washington, April 15, 1867.

The Secretary of State, to whom was referred a resolution of the Senate of the United States, passed on the 13th of April, 1867, in the following words: "*Resolved*, That the President be requested to inform the Senate, if in his opinion not incompatible with the public interests, when Alexander Cumming was appointed governor of Colorado Territory; how much of the time the said Cumming has been absent from the Territory since his appointment, and whether by permission or not; and how much of said time absent with permission, and how much without permission, and whether on public duties or not; and whether his salary has been paid to him during his absence or not, and how much has been paid to him as salary for the time he has been absent from the Territory"—has the honor to submit the following report:

On the 28th of January the Senate of the United States passed a resolution requesting the President, at his earliest convenience, "to inform the Senate how often the governors, secretaries, and judges of the several Territories have been absent from their posts of duty in the Territories since their appointments; what part of their time, since the date of their commissions, has been spent in such absence from the Territories; whether their absence has been previously authorized by leave granted in each instance; what was the public necessity for such absence in each case, and for their presence at the national capital, if any of them have been there, or are there at this time; and also whether any part, and if so, how much and what part, of the expenses of their several trips to the seat of government have been charged to the government."

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The resolution last mentioned having been referred to the Secretary of State, he made and submitted to the President a report thereupon, which bears date the 4th of February, 1867, which report was expected to be immediately transmitted to the Senate. The Secretary of State now learns that, owing to the delay which attended a necessary reference of the same last-mentioned resolution to other heads of departments, the report of the Secretary of State was not until very recently communicated to the Senate. The said report of the Secretary of State of the 4th of February contains all the information which is in the possession of this department concerning the matters inquired of in the first-mentioned resolution of the Senate, passed on the 13th of April, instant, except the additional fact, now hereby reported, that a leave of absence to the said Alexander H. Cumming, governor of Colorado, which was granted on the 1st day of December, 1866, has been extended until the 27th day of April, 1867. The reason for that extension was the necessity of his attendance at Washington, in relation to Indian affairs within the Territory of Colorado.

The Secretary of State has no knowledge in regard to the payments of salary which have been made to Governor Cumming.

WILLIAM H. SEWARD.

The PRESIDENT.

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MESSAGE

OF

THE PRESIDENT OF THE UNITED STATES,

TRANSMITTING

Reports of the heads of the several executive departments in answer to a resolution of the Senate of the 11th instant, requesting copies of any official opinions which may have been given by the Attorney General, Solicitor of the Treasury, or other officer of the government, on the interpretation of the act regulating the tenure of certain civil offices.

APRIL 17, 1867.—Read, ordered to lie on the table and be printed.

To the Senate of the United States:

I transmit herewith reports from the heads of the several executive departments, in answer to the resolution of the Senate of the 11th instant, requesting "copies of any official opinions which may have been given by the Attorney General, the Solicitor of the Treasury, or by any other officer of the government, on the interpretation of the act of Congress regulating the tenure of office, and especially with regard to appointments by the President during the recess of Congress."

ANDREW JOHNSON.

WASHINGTON, *April* 16, 1867.

DEPARTMENT OF STATE,
Washington, April 13, 1867.

The Secretary of State, to whom has been referred a copy of a resolution of the Senate of the 11th instant, requesting the President "to furnish to the Senate, if not incompatible with the public interests, copies of any official opinions which may have been given by the Attorney General, the Solicitor of the Treasury, or by any other officer of the government, on the interpretation of the act of Congress regulating the tenure of office, and especially with regard to appointments by the President during the recess of Congress," has the honor to report that there are no such opinions on file in this department, and that he has no knowledge of such documents.

Respectfully submitted:

WILLIAM H. SEWARD.

The PRESIDENT.

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TREASURY DEPARTMENT, *April* 13, 1867.

SIR: I have the honor to acknowledge the receipt of the following resolution of the Senate of the 11th instant:

"That the President of the United States be requested to furnish to the Senate, if in his opinion not incompatible with the public interests, copies of any official opinions which may have been given by the Attorney General, the Solicitor of the Treasury, or by any other officer of the government, on the interpretation of the act of Congress regulating the tenure of office, and especially with regard to appointments by the President during the recess of Congress."

In reply I have to submit a transcript of a letter addressed by me to the Solicitor of this department, and of his reply thereto, together with a transcript of his answer to a verbal inquiry relative to the matter referred to in the Senate resolution.

These contain all the information upon the subject in possession of the department.

I am, very respectfully, your obedient servant,

HUGH McCULLOCH,
Secretary of the Treasury.

The PRESIDENT.

TREASURY DEPARTMENT, *March* 2, 1867.

SIR: In view of the possibility that the commissions of the chief officers of the customs at several ports may within a few days expire by constitutional limitation before their successors have been appointed, I have the honor to request your opinion as to what legal provisions exist for the administration of the duties of the offices of collector, naval officer, and surveyor during the time one or more of them are vacant after the expiration of the commissions of the present incumbents, and in view of the imminence of the emergency, I would request the favor of an early reply.

I am, sir, &c.,

H. McCULLOCH, *Secretary.*

E. JORDAN, Esq.,
Solicitor of the Treasury.

SOLICITOR'S OFFICE, TREASURY DEPARTMENT,
March 7, 1867.

SIR: I have the honor to acknowledge the receipt of your letter of the 2d instant, asking my opinion as to what legal provision is made for the performance of the duties of collector of customs, naval officer and surveyor after the expiration of the commissions of the present incumbents.

In reply I have to say that no distinct or clear provision has been made by Congress upon the subject. At first view it would seem to be a *casus omissus*, and that the office would remain vacant or in abeyance until a new appointment could be made. This would, however, be a public calamity. Such offices must, as a matter of necessity, be constantly filled, as the duties are required to be performed day by day. They are, in this respect, different from most other offices. In view of this fact, it is not to be presumed that Congress intended to omit a provision for the exigency, but, on the other hand, considered such provision actually made. In many cases the laws provide, in terms, that an officer once appointed shall hold the office until a successor be qualified. But no

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express provision of this kind is made here. Again, at common law, certain officers are held, from necessity, to hold over in this manner.

But this has not, I believe, been the usage of our government in relation to the offices in question.

The act of March 3, 1817, empowered collectors, with the approbation of the Secretary, to appoint deputies, and declared that such deputies should be "officers of the custom." (3 Stat., 397.) A deputy is, in law, "but the shadow" of his principal, as a general rule, and his tenure of office ceases with that of the collector.

The act alluded to, however, seems intended to change the general rule, to a certain extent, and to make the deputy's office a distinct one, in some respects at least. It may be that Congress intended that he should act in the exigency in question.

I am by no means clear upon the point, but yet, in the absence of any other provision, and in view of the public necessity, I recommend that you authorize the special deputy collector to act.

The same reasoning does not strictly apply to the deputies of the naval officer and surveyor, whose respective commissions have expired; but convenience requires the same rule, and, in the absence of other provision, I think you may be warranted in following it.

I have the honor to be, very respectfully,

EDWARD JORDAN,
Solicitor of the Treasury.

Hon H. McCULLOCH,
Secretary of the Treasury.

SOLICITOR'S OFFICE, TREASURY DEPARTMENT,
March 27, 1867.

SIR: I have received through Mr. Creecy your verbal request for my opinion upon certain questions relating to the office of collector of customs at Philadelphia. It appears that Mr. Johnson received from the President a temporary appointment during the recess prior to the last session of the Senate, and a nomination for a permanent appointment during the session, which nomination was rejected, so that Mr. Johnson's term expired at the end of the session; whereupon, no other nomination having been made, the Secretary of the Treasury, in order to avoid a total suspension of the functions of the collector, directed E. R. Myer, special deputy of the late collector, to perform the duties of the office for the time being.

The questions propounded to me are whether, under these circumstances, the Secretary can now remove Mr. Myer and appoint a successor, or devolve the duties of the office upon another; whether he could do so during the recess of the Senate; and, finally, who, in case of the death or resignation of Mr. Myer, could perform the duties of the office and by whose authority?

In reply I have to say that I think you have the power to remove Mr. Myer, for good cause affecting the public interests, either now or during the recess of the Senate, and that in the event of such removal it is competent for you to designate some one of the other deputies of the collector to perform the duties of the office; and I think the same action would be proper in case of the death or resignation of Mr. Myer.

Perhaps in making such designation it would be advisable to select the oldest deputy, provided there were no special reasons to the contrary. These powers are not conferred upon you by any express provisions of the law, but they seem to me to result from the imperative necessity of avoiding a total suspension of

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the functions of the collector and of the duty imposed upon you "to superintend the collection of the revenue."

It is perhaps proper for me to add that I have read this letter to the Attorney General, and that he concurs in the views it expresses.

I have the honor to be, very respectfully,

EDWARD JORDAN,
Solicitor of the Treasury.

Hon. HUGH MCCULLOCH,
Secretary of the Treasury.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 12, 1867.

SIR: In reply to the resolution of the Senate of the 11th instant, calling upon the President "to furnish to the Senate, if in his opinion not incompatible with the public interests, copies of any official opinions which may have been given by the Attorney General, the Solicitor of the Treasury, or by any other officer of the government on the interpretation of the act of Congress regulating the tenure of office, and especially with regard to appointments by the President during the recess of Congress," and referred by the President to this department, I have the honor to say that I have given no official opinion on the interpretation of the act of Congress regulating the tenure of office, nor have I been asked or required to give an opinion thereon.

I have the honor to be, very respectfully, your obedient servant,

O. H. BROWNING, *Secretary.*

The PRESIDENT.

WAR DEPARTMENT,
Washington City, April 13, 1867.

SIR: I have the honor to state, in reply to the Senate's resolution of April 11th, respecting official opinions which may have been given on the interpretation of the act of Congress regulating the tenure of office, referred by you to this department, that no opinion on the subject has been given by the Secretary of War.

Very respectfully, your obedient servant,

EDWIN M. STANTON,
Secretary of War.

The PRESIDENT.

NAVY DEPARTMENT,
Washington, April 13, 1867.

SIR: I have the honor to acknowledge the receipt of a copy of the resolution of the Senate, of the 11th instant, asking for "copies of any official opinions which may have been given by the Attorney General, the Solicitor of the Treasury, or by any other officer of the government, on the interpretation of the act of Congress regulating the tenure of office," &c., and to state in reply that the department has not given, and has had no occasion to give or express an opinion on the subject-matter of the resolution.

I am, sir, very respectfully, your obedient servant,

GIDEON WELLES,
Secretary of the Navy.

The PRESIDENT.

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POST OFFICE DEPARTMENT,
Washington, April 16, 1867.

SIR: I have the honor to acknowledge the receipt of a copy of the resolution passed by the Senate on the 11th instant, requesting "copies of any official opinions which may have been given by the Attorney General, the Solicitor of the Treasury, or by any other officer of the government, on the interpretation of the act of Congress regulating the tenure of office," &c., and to state that this department has not given any official opinion as to the interpretation of the act to which the inquiry refers.

I have the honor to be, very respectfully, your obedient servant,

ALEX. W. RANDALL,
Postmaster General.

The PRESIDENT.

ATTORNEY GENERAL'S OFFICE,
Washington, April 15, 1867.

SIR: I have received a copy of the resolution of the Senate passed on the 11th instant, requesting the President to furnish to the Senate copies of any official opinions which may have been given by the Attorney General, the Solicitor of the Treasury, or by any other officer of the government, on the interpretation of the act of Congress regulating the tenure of office, and especially with regard to appointments by the President during the recess of the Senate.

In answer to this resolution, I have the honor to say that I have given no official opinion touching the interpretation of the act referred to or any part thereof.

I have the honor to be, sir, with great respect,

HENRY STANBERY,
Attorney General.

The PRESIDENT.

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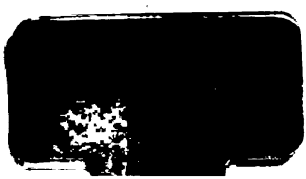

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